

THE INTERNET GAMBLING ACT OF 1997

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HEARING

BEFORE THE

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM,
AND GOVERNMENT INFORMATION

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

ON

S. 474

A BILL TO AMEND SECTIONS 1081 AND 1084 OF TITLE 18, UNITED
STATES CODE

DEPOSITORY

JULY 28, 1997

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THE INTERNET GAMBLING PROHIBITION ACT OF 1997

MONDAY, JULY 28, 1997

U.S. SENATE,
SUBCOMMITTEE ON TECHNOLOGY, TERRORISM,
AND GOVERNMENT INFORMATION
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:02 p.m., in room SD-226, Dirksen Senate Office Building, Hon. Jon Kyl (chairman of the subcommittee) presiding.

OPENING STATEMENT OF HON. JON KYL, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator KYL. This hearing of the Judiciary Committee Subcommittee on Technology, Terrorism, and Government Information will come to order.

We are pleased today to have before us a bill which both the ranking member, Senator Feinstein, and I have sponsored, the Internet Gambling Prohibition Act of 1997. Let me state at the outset that Senator Feinstein had very much hoped to be here. She is traveling today and will not be able to join us, but fortunately she has assisted in developing our panel for today and we appreciate that, and I will have more to say about that in just a moment.

Let me begin with a brief statement about the nature of this legislation and then call upon our first two witnesses, both very distinguished public servants in their own right.

Gambling on the Internet is rapidly becoming a big problem. It is a \$1 million a year activity that is unregulated and largely illegal if done in other venues. Some experts predict that it will take billions of dollars by the turn of the century.

Historically, States have had the ability to either prohibit gambling or strictly regulate it within their borders. Gambling across State lines is illegal, but the advent of the Internet has created the opportunity to gamble in a manner that is not specifically covered by our laws and the potential for fraud and abuse of Internet gambling is significant.

The pervasiveness of gambling in our society is shown by the fact that Gamblers Anonymous added over 400 new chapters in America between 1990 and 1995. The problem will become worse as gambling expands to new venues. There are already hundreds of gambling-related sites available to users of the Internet. That includes sites for Blackjack, craps, roulette, and sports betting. Anyone with a computer and a modem has access to a casino, and vir-

tual casinos make it easier for those with gambling addictions to sink deeper into debt and despair because all they have to do is sit down and log on. It is what Robert Goodman, urban planning professor at Hampshire College, calls the hardcore crack cocaine of gambling.

Placing a sports bet from one State to another via the telephone has been illegal for many years. Yet, nonsports betting has been interpreted as permissible on the Internet. This bill is therefore necessary for the legal system to keep pace with technology.

Senate bill 474 dispels any ambiguity by making clear that all betting, not just sports betting, will be illegal if conducted on the Internet. It clarifies the definition of bets and wagers to ensure that those who are gambling cannot circumvent the law. For example, virtual gaming businesses have been known to offer prizes instead of money in an attempt to evade the law.

The bill's most important provision permits Federal, State and local law enforcement officials to request or, by court order, to require both the telephone company and the Internet service provider to pull the plug on any Internet gambling business among their customers. The National Association of Attorneys General believes that this provision will be a very effective deterrent.

An example: Let us say the attorney general of Arizona, after gathering the proper evidence, discovers that a gambling site created in another country is enticing citizens of Arizona to bet on the site. If our bill becomes law, the attorney general could go to America Online or to US West with a court order and require those businesses to cut off service to the site in question. Too often, illicit operators of virtual casinos set up shop in friendly jurisdictions beyond the direct jurisdiction of U.S. law.

Now, opponents of our bill have argued that it is too soon to consider legislation on Internet gambling; that the National Commission on Gambling might make some recommendations about it. If this were an overly complicated matter, that might be a proper course of action. But this bill is essentially a very straightforward application of existing law to a new venue. Moreover, we need to pass legislation now to prevent online gambling from mushrooming out of control.

At our subcommittee's hearing on Internet crimes, Wisconsin attorney general and chairman of NAAG, Jim Doyle, testified that the States are right on the verge of seeing Internet gambling completely mushroom. He also said that he and his colleagues want legislation which would allow the Federal Government to take the lead in law enforcement action against gambling on the Internet.

The National Commission has not even begun its work yet. While it has been close to a year since the Gambling Commission was established, the last vacancies were filled only last month. Finally, it is unclear to what extent the commission will study Internet gambling. It is likely that it will be a low priority behind such issues as casino, riverboat, and Indian reservation gambling.

There is growing support for changes in the current law. The National Association of Attorneys General has a task force on Internet gambling and the report of the task force, authored by Attorneys General Dan Lungren and Hubert Humphrey, called for a legislative remedy to stem the tide of electronic gambling. NAAG has en-

dorsed our bill, as has the Federal Bureau of Investigation. According to MSNBC, others, including the Christian Coalition and Ralph Nader's consumer protection group, which probably agree on very little, support this legislation.

Since we have had the bill out for comment, we have received some good suggestions, as a result of which we have made some changes to the bill. First, we have increased the penalties for those who are convicted of operating online gambling businesses from a \$10,000 fine and up to 2 years in jail to a \$20,000 fine and up to 4 years in jail. These are the operators whose potential take is so large that a meaningful penalty is required to dissuade them from engaging in the activity.

Second, those who place a bet with a professional gambling operation, to which I just referred, will be subject to a fine of up to \$2,500 and 6 months in jail. So opponents of our bill will no longer be able to argue that we are penalizing the casual bettor. We are not doing that in the bill.

Additionally, we have added a sense of the Senate component to the bill which encourages the President to negotiate agreements with other countries to allow U.S. officials to prosecute those who are coordinating bets to U.S. citizens from outside the United States. And, finally, we have written exceptions into the law to ensure that those activities that the States have deemed legal will continue to be permitted. The bill specifically exempts information used for news reporting, bets or wagers between persons where it is legal in the State where the bet is transmitted and received, and information used to assist bets or wagers where it is legal in the State where the bet is transmitted and received.

In short, our legislation simply updates the law by extending existing prohibitions on gambling to the Internet. Society has always prohibited most forms of gambling because it can have a devastating effect on people and families, and it leads to other crime and corruption if not strictly regulated. Extending the prohibition on gambling on the Internet is no different than extending it to the telephone or wire, as happened when those innovations came along.

The Internet offers fantastic opportunities. Unfortunately, some would exploit those opportunities to commit crimes and take advantage of others. Illegal acts should be prohibited wherever they occur, including in cyberspace. We are convinced that the Internet Gambling Prohibition Act will help to curb the spread of online gambling, and I look forward to hearing the testimony of our witnesses.

We will have statements from other Senators inserted into the record. We will keep the record open for that purpose. For example, Senator McConnell from Kentucky has offered a statement. We will submit that.

[The prepared statement of Senator McConnell follows:]

PREPARED STATEMENT OF HON. MITCH MCCONNELL, A U.S. SENATOR FROM THE
STATE OF KENTUCKY

STATEMENT ON S. 474—INTERNET GAMBLING PROHIBITION ACT

Senator Kyl, this is important legislation that the Subcommittee is reviewing today, and I appreciate the opportunity to offer my views.

Communication today is very complicated in our highly complex and ever-changing technological world. The Internet has grown dramatically over the last several years and is expected to be available to several hundred million individuals by 2000. Along with the wonderful opportunities this brings, it also brings great concerns.

One of those concerns is the ability to offer wide-open, unregulated gambling, particularly from outside the jurisdiction of the United States' authority. I applaud the sponsors of this legislation for recognizing this and trying to give states the tools necessary to enforce their own gambling laws.

One industry that is important to my state, and the country, is horse racing and breeding. Nationally, this great sport involves 725,000 horses and nearly a million participants; it generates \$34 billion in annual revenue and supports nearly a half-million jobs. In my state of Kentucky, it is a \$3.4 billion industry that involves over 75,000 horses and supports 53,000 full-time jobs.

Parimutuel horse racing presently operates in 37 states with on-track, off-track, and inter-track wagering. Like others, the horse racing industry has had to adapt and change dramatically in the face of exploding competition and new technology. Just one example of that adjustment is that over fifty percent of all wagers made on racing today are made at facilities other than where the race itself is run.

Telephone wagering on parimutuel racing is authorized and offered in various states. My state of Kentucky has been conducting telephone wagering in a limited way for some years with the likelihood it will be expanded overtime. New York has authorized such wagering for over 15 years, and Oregon has just approved it.

Race tracks, horse associations and private businesses have been offering information on the sport through various traditional and more technological media for some time. All of this has developed under strict governmental licensing and regulation, including Section 1084 of the United States Code, the so-called wire statute, which this legislation would amend.

The regulated and licensed parimutuel horse racing industry agrees with the underlying premise of this legislation: That the regulation of gambling is essential to protect state policies and revenues. The racing industry wants to control its product and the integrity of racing. It does not want unlicensed entities using its product for unregulated gambling, whether on the Internet or otherwise.

The racing and breeding industry is concerned, however, that changes to Section 1084 might adversely impact the developments in racing and what it hopes to do in the future. I know that you and your staff have endeavored to ensure that changes to the wire statute under this legislation will not adversely impact the racing and breeding industry, or may be done in the future, under state licensing and regulation. I appreciated that.

I applaud your work on this legislation and, although not a member of the Committee, hope to work with you and the other members to craft legislation that will give state law enforcement authorities and officials the ability to enforce their own gambling laws in the fast-changing technical world of today.

Thank you very much.

Senator KYL. Of course, any statements that are made by people testifying before the panel will be included in the record as well.

It is now my privilege to introduce one of my colleagues, Senator Richard Bryan, who has served the State of Nevada for a long time. He was State attorney general from 1978 to 1982, so he knows these kinds of law enforcement issues well. He was elected governor in 1982, and reelected in 1986. So he is clearly knowledgeable of that State's significant regulation and operation of legal gambling activity. Senator Bryan won his current seat in the U.S. Senate in 1988 and was reelected to his second term in 1994.

Senator Bryan, we are delighted that you are here and we are happy to take your testimony at this time.

PANEL CONSISTING OF HON. RICHARD H. BRYAN, A U.S. SENATOR FROM THE STATE OF NEVADA; AND JAMES E. DOYLE, ATTORNEY GENERAL, STATE OF WISCONSIN, ON BEHALF OF THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

STATEMENT OF HON. RICHARD H. BRYAN

Senator BRYAN. Thank you very much, Mr. Chairman. I appreciate the opportunity to appear here before you on the Internet Gambling Prohibition Act, and I would like to commend you for introducing this legislation and scheduling this hearing today.

Mr. Chairman, I want to say at the outset that I strongly oppose gaming on the Internet and I support your legislation to prohibit it. There are currently 50 million households in the United States with computers, and 25 million of those computers have access to the Internet. Most experts are predicting an explosion in the growth of families hooked up to the Internet. In fact, most schools and libraries will be online by the turn of the century.

Unlike the heavily regulated casinos in Nevada, Internet wagering is unregulated, and since many of these sites operate offshore, it is beyond the reach of U.S. authorities. Such a scenario is ripe for consumer fraud. The greatest danger posed by Internet gambling is that there is no way to control it and there is no way to regulate it. Gaming should be a regulated, adult recreational activity, and there is no fool-proof way of ensuring that children can't access the Internet gambling site.

Our experience with 900 numbers offers a preview of the dangers of Internet gambling. In most instances, it was not until parents received enormous phone bills for these services that they realized that their children had been exposed to what was frequently adult-oriented material. In Nevada, one of our most important gaming regulations is a ban on gambling until age 21. Over the Internet, there is simply no effective way to prohibit access by children.

Your legislation, Mr. Chairman, updates our communications statutes to keep pace with the new technology. Current law prohibits gaming through the mail or over the telephone, but the existence and growing popularity of new forms of electronic communications, such as the Internet, have created huge loopholes in these statutes.

The legislation builds upon existing communications laws. What is now legal on other forms of electronic transmission will remain legal, and what is now illegal on other forms of electronic communication will become illegal on the Internet as well. By simply modernizing and updating the current prohibitions of the Wire Act, the legislation before your subcommittee today eliminates gaming on the Internet. Your legislation, Mr. Chairman, protects the legitimate business interest of the Internet by the legalized gaming industry, as you have pointed out, but prohibits the conduct of gaming over the Internet.

As a former governor and attorney general of Nevada, I strongly support the rights of States to make individual determinations within their own State boundaries as to the kinds of activities that may be conducted within those borders. Some States have chosen to permit gaming and others have chosen to prohibit it. That should be their choice. By its very nature, the Internet cannot be

constrained by State or national boundaries. It is physically impossible for any State to regulate gaming on the Internet and the only responsible choice Congress can make is to simply prohibit it.

I am a strong supporter of the legalized and regulated gaming industry in my own State. Gaming in Nevada is vigorously regulated and is an essential ingredient of Nevada's success as a world-class destination. Nevertheless, bringing gaming directly into people's homes, as we are beginning to see through the Internet, is so full of potential problems and so far beyond the ability of any State to regulate it that despite whatever business potential it may have, it needs to be prohibited on a national level.

Mr. Chairman, may I say that I have had experience with dealing with gaming regulation in Nevada for several decades. I simply have no confidence whatsoever that gaming on the Internet can be regulated now or at any time in the future. I would like to conclude as I began by indicating my strong opposition to gaming over the Internet and to urge this committee and the Congress to act quickly to enact the legislation before you today.

Let me just say I personally commend you, Mr. Chairman. I have enjoyed our working relationship in crafting this piece of legislation. I think you have done an extraordinarily effective job in balancing the various competing interests. This is legislation that is not complicated, as you point out. I think its policy message is clear, and the sooner that we can enact this, I think, the better for all.

Senator KYL. Thank you very much, Senator Bryan, and I would note that you have been very helpful in helping us to shape the legislation. Because of your expertise in trying to handle the gambling matters appropriately, when that can be done at the State level, we have certainly called upon you.

I have no specific questions to ask you because you have been kind enough to provide your input to us already. You are welcome to continue to remain here at the hearing and to hear the testimony of others, or if you need to go, I will just leave it to your discretion to leave when you feel that is appropriate.

Senator BRYAN. Mr. Chairman, I appreciate it. As a former attorney general, I think I should remain to hear General Doyle's comments.

Senator KYL. And you will enjoy that. We have had General Doyle appear before us previously, including on this issue, but on consumer fraud issues generally. He has been a leader in the area. He has been very helpful to our committee, and he is representing the National Association of Attorneys General now, so we are very happy to have him with us.

Mr. Doyle is the attorney general for the State of Wisconsin, a position he has held since 1991. He is the current chairman of the National Association of Attorneys General. Prior to that, he chaired NAAG's Internet Gambling Subcommittee. The attorney general appeared before the subcommittee earlier this year at our hearing on Internet crimes.

Again, Attorney General, welcome.

STATEMENT OF JAMES E. DOYLE

Mr. DOYLE. Well, thank you, Mr. Chairman and Senator Bryan. I want to extend my thanks to you, Senator Kyl, for the leadership you have shown. This is an issue that we as State attorneys general identified some time ago and hoped to get ahead of the curve and have something in place before it really came upon us, and it is fortunate we found somebody like you who was willing to focus and really address this issue, and I thank you and I thank Senator Feinstein as well.

I also want to thank Senator Bryan for many things related to NAAG and the job of attorneys general. He has been a great friend of our association. He also in the area of gaming, let me say—the State of Nevada has been extremely helpful to many States that have been getting into, in the last 5 or 10 years in some form or another, State lotteries or Indian casinos or other forms of gambling. And we have repeatedly turned to Nevada to find out how you actually go about regulating this and what kind of structure you have to have in place, and I know much of that was the work of Senator Bryan in his role as an attorney general and as a governor, and I want to thank him for that.

I also greatly appreciate the opportunity to be here to voice my support for the Internet Gambling Prohibition Act. The Internet, as you mentioned, Senator, has the potential to provide many exciting opportunities for improved communication and commerce. In fact, as the State of Wisconsin's chief law enforcement officer, we find it to be a tremendous tool that assists law enforcement. However, increased use of the Internet as a vehicle for gambling will cause a serious problem for law enforcement agencies and consumers all over the country.

I have worked with a group of State attorneys general in examining this issue over the last 2 years. We concluded last year in our first written report on the subject that illegal online gambling operations were a sleeping giant because only a handful of operational Internet casinos and sports books were available.

Our group issued a second report on Internet gambling last month at the summer meeting of the National Association of Attorneys General, and we found that today, in 1997, Internet gambling is growing and the technological obstacles that have limited its development are far less formidable than they once appeared to be.

Many of the games today are still rather slow and boring, compared to the gambling action at a real casino. However, with improved bandwidth, better software, and more powerful modems, the games will get faster and more exciting. Those who know Internet technology tell us that getting the cards to pop up quickly or the cherries to roll faster are not insurmountable problems.

Most of the operations accepting bets require to use your credit card or to wire money in order to set up an account. Yet, as other forms of legitimate commerce on the Internet advance, easier ways to exchange value in cyberspace will be developed. When cybercash or other electronic currency products are fully operational, we can expect to see more and more people lose money through Internet gambling.

It is possible today to find hundreds of Web sites which either promote gambling or announce plans to offer Internet gambling in

the near future. Several dozen sites are already accepting bets for lotteries, sporting events, and casino games. Last week, my staff went on the Net and brought up a number of the gambling sites which are now available. We have videotaped some of these sites in order to show you what is out there.

[Videotape shown.]

Mr. DOYLE. Anyone can find a wide variety of these gambling sites. Many of them are very colorful and creative, as you can see. Some merely promote other forms of gambling. Some are advertising their plans to launch full casino gambling in the near future. Others are up and running, accepting bets from anyone who wants to open an account.

Internet gambling can be located almost anywhere. Some proudly tell you where they are based. Many come to us from foreign countries. Others prefer not to share that information. There is one, I think, that is about to come up that says it is coming from the South Pacific, the Cook Islands. These are exotic spots. Where it actually is coming from, I guess, is anybody's guess. But with the Cook Islands game, the casinos are the South Pacific. These are the kinds of games. You see the cherries spinning, and soon the TV screens essentially will be video gambling machines in everybody's home.

Here is where you can register for the South Pacific casino, and you can choose which of the games that you want to play. Sometimes, the games are free, which have very favorable odds and are designed to entice you to play the same games for money. So when you play them for free, you will see how easy it is to win. It gets more difficult when you are playing for money.

The Gaming World site is one of the ones that will give you sporting information, and if you decided to go down and look, for example, at what the Las Vegas odds for the 1998 Super Bowl, you would see what everybody in Wisconsin already knows, which is that the Green Bay Packers are the likely winners of the next Super Bowl.

Senator KYL. By the way, that is first amendment-protected, right?

Mr. DOYLE. That is first amendment-protected. I want to be clear.

While passing on the betting lines, and so on, is no problem—it happens in the newspaper—what you will see at the end of this particular tape, this site, as they run down, there you see the Packers are 5 to 2. Actually, they won their first game; they are probably ahead of that now. But at the end, it says watch for the AFC-NFC Championship, and then it says “Have some fun with us, call us today,” and is enticing you at the bottom of that to place a sports bet. They are urging citizens in our State—to the extent that message is received in Wisconsin, they are urging Wisconsin citizens to break the law if they pick up the phone and call and make that bet.

More than most other areas of the law, gambling has generally been regulated on a State-by-State basis. As Senator Bryan has indicated, some States permit it, some don't. Others have different forms of it, and so on. Internet gambling threatens to disrupt that

entire system. It crosses State and national borders, with little or no regulatory control.

If gambling, in general, is a dumb bet, then gambling on the Internet is a very dumb bet. Because it is unregulated, consumers don't know who is on the other end of this connection. The odds can be easily manipulated and there is no guarantee that fair payouts will occur. To make matters worse, when you experience problems at a gambling Web site, it is hard to find your bookie in cyberspace.

We have worked hard at the regulation of gambling. Again, many States have followed Nevada's lead. I think one of the best standard rules is that there is no way that you can overregulate gambling. We do background checks on anyone who is involved in a legalized form of gambling. We work hard to make sure that organized crime does not infiltrate. We can check the accuracy of the games. We can do all of those things in connection with regulation, but when we are dealing with a site that has come up on the Internet, we don't know who is on the other end and it presents a tremendous threat for consumer scams.

I also fear the negative effects that will result from bringing this form of expanded gambling into the home. When the technological obstacles are overcome, each home computer hooked up to the Internet can become a minicasino, and what we are watching here today can come into anybody's home. Children, unlike at other gambling venues, will have access to a full range of gambling options.

We know that video machines are the most addictive form of gambling. Some call them, as Senator Kyl has noted, the crack cocaine of the gambling world. When the personal computer becomes a video gambling machine, the problem gambler will confront a powerful temptation in the next room 24 hours a day. A person, rather than watching television or reading a book or visiting with their family, can go to their home computer and lose \$500, \$1,000, \$2,000 once this technology is fully active. Clearly, as Internet gambling grows, society stands to suffer from more and more gambling addiction.

We are seeing a fairly typical sample of games that have been picked up. The biggest problem, as I understand it, is just the technological problem of having those screens move fast enough at home. The gambling addition requires that there be an immediate response, that those three cherries come up there or that the two come up and the third just misses, and somebody places that next bet. One of the most important parts about what is happening here, what you are doing, is trying to get ahead of that.

We are soon coming to a site called the Rolling Good Times. It is pretty hard to try to time what I am saying with this. Rolling Good Times is a newsletter that passes on information about Internet gambling and it is a way that information is exchanged by people who are involved in it about what is going on. There are a number of aspects to it I would like to point out.

This is Rolling Good Times, and they have reviewed the attorneys general report and you can see they didn't think much of that. [Laughter.]

Rolling Good Times also, I might add, Senator, is taking a pool that people can enter on whether your legislation is going to pass or not. [Laughter.]

I am sorry we didn't get this on the screen, but I will leave it as an exhibit. It says "For entertainment purposes only," but you can place your bet on whether it will pass or it won't pass. What I think Rolling Good Times shows is that there is an industry that is developing, and developing rapidly, in the area of Internet gambling. It is following this legislation closely. There are hundreds of millions, I think potentially billions of dollars that are involved, and this is obviously an industry, if you call it an industry—it is something that is trying to get going and is watching very carefully what is happening in Congress.

We have shown just a couple of games at the very end that give you a sense of what it is, how you play these. This, again, is a fairly standard Black Jack game, and I think what I again want to really emphasize is that as you watch these, as you enter your name and go on to begin to play, now we are betting for free, although you could enter a Master Card number here and bet for money. And who knows what is on the other end of this screen? Who knows whether those cards are fair? Who knows what the payout on this machine is? Who knows whether organized criminal activity is involved?

There is just no way that you can begin to have the kind of regulation that is necessary if you are going to protect people as they gamble. It is likely in the near future that consumer confidence in the Internet in general will grow and more people will buy a large number of goods and services through Web sites. When that happens, it is possible that some will lose a lot of money believing that Internet gambling is a safe venture.

Again, I want to thank you, Mr. Chairman, for your work with the National Association of Attorneys General. We strongly support what you are doing. I think it is a very good example of efforts to try to get ahead of the curve, to take very positive, meaningful steps early on before we have an enormous problem years down the road that we are trying to dig our way out from under. So I appreciate your giving me the chance to be here today and for all the efforts that you have made.

Senator KYL. Well, thank you very much.

[The prepared statement of Mr. Doyle follows:]

PREPARED STATEMENT OF JAMES E. DOYLE

Thank you Mr. Chairman. I appreciate the chance to be here today and to share with you some of my concerns about developments that are taking place with gambling on the Internet. I also appreciate the opportunity to voice my support for the Internet Gambling Prohibition Act.

The Internet—as you know—has the potential to provide many exciting opportunities for improved communication and commerce, however increased use of the Internet as a vehicle for gambling will cause serious problems for law enforcement agencies and consumers all over the country.

I have worked with a group of State attorneys general in examining this issue over the last two years. We concluded last year in our first written report on the subject that illegal online gambling operations were a "sleeping giant" because only a handful of operational Internet casinos and sports books were active.

Our group issued a second report on Internet gambling last month at the summer meeting of the National Association of Attorneys General. We found that today—

in 1997—Internet gambling is growing and the technological obstacles that have limited its development are far less formidable than they once appeared to be.

Many of the games today are still rather slow and boring compared to the gambling action at a real casino. However, with improved bandwidth, better software and more powerful modems, the games will get faster and more exciting. Those who know Internet technology tell us that getting the cards to pop up quickly or the cherries to roll faster are not insurmountable problems.

Most of the operations accepting bets require you to use your credit card or to wire money in order to set up an account yet as other forms of commerce on the Internet advanced easier ways to exchange value in cyberspace will be developed. When cybercash or other electronic currency products are fully operational, we can expect to see more ways to lose money through Internet gambling.

It is possible today to find hundreds of web sites which either promote gambling or announce plans to offer Internet gambling in the near future. Several dozen sites are already accepting bets for lotteries, sporting events and casino games.

Last week my staff went on the net and brought up a number of the gambling sites which are now available, we videotaped some of the sites in order to show you what is out there.

Anyone can find a wide variety of gambling sites. Many of them are very colorful and creative. Some merely promote other forms of gambling some are advertising their plans to launch full casino gambling in the very near future. Others are up and running accepting bets from anyone who wants to open an account.

Internet gambling sites can be located almost anywhere. Some proudly tell you where they are based. Many come to us from foreign countries. Others prefer not to share that information.

Some allow you to play games for free or to set up an account in order to bet with real money. Sometimes the free games—which might have very favorable odds—are designed to entice you to play the same games for money. If you do, both the gambler and the gambling operator have broken the law.

This shows us one of the many web locations designed to promote betting on sports events. If we decide to check out football, it will give us current Las Vegas odds for the 1998 Super Bowl.

Such information is readily available in many publications and at first glance doesn't appear very troublesome—particularly when you read the fine print and learn that the Green Bay Packers are favored to win another world championship. However, the encouragement at the end of this page—to call your bet in now on the telephone—is urging citizens in Wisconsin and elsewhere to break the law.

More than most other areas of the law, gambling has generally been regulated on a State-by-State basis. Internet gambling threatens to disrupt that system. It crosses State and national borders with little or no regulatory control.

If gambling in general is a dumb bet, then gambling on the Internet is a very dumb bet. Because it is unregulated, consumers don't know who is on the other end of the connection. The odds can be easily manipulated and there is no guarantee that fair payouts will occur. To make matters worse—when you experience problems at a gambling web site it will be hard to find your bookie in cyberspace.

I also bear the negative effects that will result from bringing this form of expanded gambling into the home. When the technological obstacles are overcome, each home computer hooked up to the Internet can become a mini-casino. Children—unlike at other gaming venues—will have access to a full range of gambling options.

We know that video machines are the most addictive form of gambling. Some call them the "crack cocaine" of the gambling world. When the personal computer becomes a video gambling machine, the problem gambler will confront a powerful temptation in the next room 24 hours a day clearly, as Internet gambling grows, society stands to suffer from more gambling addiction.

I appreciate the fact that this bill clarifies Federal law in several important ways. The National Association of Attorneys General is glad that it provides a mechanism for State, local and Federal law enforcement officials to get telephone companies and Internet service providers to "pull the plug" on Internet gambling businesses which are in violation of our laws.

As a State official, I rarely want the Federal Government to take the lead. But the State attorneys general realize that Federal authorities must take the lead in this area. Because many of the illegal operations are based in other countries, we need Federal officials to negotiate the proper international agreements to allow Federal prosecutors to go after those who target U.S. citizens. We will—of course—look forward to working with the Federal Government on this unique challenge.

It is likely—in the very near future—that consumer confidence in the Internet will grow and more people will buy a large number of goods and services through

web sites. When that happens it is possible that some will lose a lot of money believing that Internet gambling is safe venture.

Thank you again Senator Kyl for your work with the National Association of Attorneys General on this issue. I do appreciate the chance to be here today and am willing to try to answer your questions.

Senator KYL. Actually, I would like to ask Senator Bryan a question first. Senator Bryan, in your State of Nevada, which we all know has gambling, is it regulated by the State?

Senator BRYAN. It is, indeed.

Senator KYL. And how strongly? For example, if I gamble in Las Vegas, can I find out what the odds are of my winning?

Senator BRYAN. Much of that is available at the casino itself, I am sure, but by and large, Nevada's regulating structure takes a two-tier system. The Gaming Control Board is a full-time board which has several hundred people who are involved in every aspect of monitoring the activity itself from the standpoint of investigating those who are prospective applicants—the issue that the attorney general raised is you don't know who is involved at the other end; in monitoring the activity in the casino itself in terms of the enforcement activity; and in terms of auditing, that is, to make sure that from the standpoint of the State's perspective that the revenues that are due to the State are paid in the proper manner. So those are three divisions.

The Gaming Commission then ultimately is appointed by the governor, as the Gaming Control Board, but the Gaming Commission then, in effect, sets the policy and they make the final determination on those who are applying for a license, whether or not they are to be granted such a license. And in those instances in which discipline becomes a part of the process—and any regulatory process obviously has to have a disciplinary mechanism, and Nevada's is very effective—it is the Gaming Commission that ultimately makes the determination as to who is licensed and under what circumstances a license is revoked.

Senator KYL. And they have got jurisdiction over everyone because they are in the State?

Senator BRYAN. Absolutely.

Senator KYL. And if I win a bet at a casino, do I have a right under Nevada State law then to collect that bet?

Senator BRYAN. You do, indeed, and indeed if there is a problem with respect to the payment, for whatever reason, then the Gaming Control Board as part of its responsibility will make inquiry with respect to the controversy. And from time to time—it happens somewhat infrequently, but it does occur, and they make their recommendation. Oftentimes, it is resolved at that level, but the Gaming Commission itself would have the ultimate jurisdiction.

Senator KYL. In contrast to that, Attorney General Doyle, you testified before and reiterated today that this is one of those rare instances in which the State attorneys general, who are always very appropriately jealous of the jurisdiction of the States, have said cyberspace knows no State boundaries; you need the Federal Government to be involved in this legislative activity.

Mr. DOYLE. If there was ever an instance, I think, where you see the need for a Federal Government, it is in this area. The transmissions go over State lines, often over national lines. As the attorney general in Wisconsin, it is very difficult for me to investigate

and prosecute, even though I may have jurisdiction, somebody who is in another State, much less another country.

I think there are two provisions in this bill that are so important to us. One is it makes it clear that it is a Federal offense to use the Internet for gambling if it is going into a State that prohibits gambling. So the law very carefully protects States' rights. It also makes clear that you are not infringing on anybody's right to fairly disseminate information, even if that information may be about gambling. It is the betting itself that is illegal.

The second portion that is so important to us is the enforcement mechanism by which a State attorney general can go into Federal court to seek a remedy, no matter where the operation may be located. So it is extremely important to us. It shows the kind of partnership between the Federal Government—a strong set of Federal laws, the involvement of the U.S. Department of Justice. And we do not intend to back away from this. We will continue to be very active in investigating and in using the powers that would be given to us under this law.

Senator KYL. In that regard, I might say this is an instance where there will necessarily be very close cooperation between the Department of Justice and the individual State attorneys general. Director Louis Freeh was before this subcommittee this morning on another matter. He told me that he would like to be here this afternoon to testify. He said, "If you need me to, I will be here to express my support for this legislation." I said, "Well, I will express it for you." He has already done that publicly in this hearing room.

I told him about your earlier comments about protecting State jurisdiction, but this is one area where we need to work together, State and Federal Government. He said, absolutely. So I am certain that when Rolling Good Times takes its odds on this legislation, even though opponents will put a lot of money into it, I think the odds are pretty good—with the virtually unanimous support of the law enforcement community, both national and State, the odds are pretty good this legislation is going to pass and be signed into law before the end of the year.

Senator BRYAN. Mr. Chairman, under your capable leadership, that is a sucker bet.

Senator KYL. Well, thank you. There is much that we could reiterate here, but I think your testimony, both of you, is very, very strong. I very much appreciate it, and I guess I would like to conclude, Attorney General Doyle, by just repeating your point about the fact that illegal gambling operations on the Internet are a sleeping giant, and therefore requires that we take action now before it gets out of control.

Thank you very much for your testimony, both of you.

Our second panel—and I would like to call to the table at this time Jeff Pash, Ann Geer, and Anthony Cabot. Let me tell you about each of these witnesses before I introduce them in order.

Jeff Pash is counsel for the National Football League, and we are delighted to have him as a representative of the NFL with us today.

Ann Geer is chairman of the National Coalition Against Gambling Expansion. Likewise, we are delighted to have you here, Ann.

Finally, Senator Feinstein, though she could not be present, was very interested in having a legal expert on our panel and was able to prevail upon Anthony Cabot to be here. He is an attorney with the firm of Lionel, Sawyer and Collins, and is an expert in particularly the jurisdictional issues relating to our subject today. We are delighted to have all three of you before us. Let me introduce you in this order and ask each of you then to just go ahead and make your presentations, after which I will have some questions for each of you.

Jeff Pash was appointed executive vice president of the National Football League this year. From 1993 to 1997, Mr. Pash was general counsel of the National Hockey League. He was previously a partner at Covington and Burling, in Washington, DC, one of the premier law firms in the country.

Ann Geer currently serves as chairman of the board for the organization which oversees the National Coalition Against Gambling Expansion. She has made many presentations on this subject publicly, and we are again very appreciative, Ann, that you are here with us today.

Anthony Cabot is a partner in the law firm of Lionel, Sawyer and Collins in Las Vegas, NV. He is a faculty member of the International Gaming Institute at the University of Nevada-Las Vegas, and he is a graduate of Arizona State University College of Law in Tempe, AZ, and therefore is naturally an erudite spokesman on legal matters.

So we are delighted to have all three of you before us today. Jeff Pash, let me begin with you and ask you to make your opening comments, please.

PANEL CONSISTING OF JEFF PASH, EXECUTIVE VICE PRESIDENT, NATIONAL FOOTBALL LEAGUE; ANN GEER, CHAIR, COALITION AGAINST GAMBLING EXPANSION; AND ANTHONY CABOT, LIONEL, SAWYER AND COLLINS, LAS VEGAS, NV

STATEMENT OF JEFF PASH

Mr. PASH. Thank you very much, Mr. Chairman. I am very pleased to be here today on behalf of the National Football League to express our support for the Internet Gaming Prohibition Act.

I know, Mr. Chairman, that you received a letter last month from Commissioner Paul Tagliabue in which he endorsed this legislation. We are so strongly in favor of this bill, Mr. Chairman, because it not only reinforces the existing prohibitions that Congress has repeatedly declared as national policy against sports gambling, but it strengthens the tools available to combat what you, Mr. Chairman, and what the first panel identified as a growing and pernicious national problem—gambling on the Internet, and specifically from our vantage point illegal sports gambling on the Internet, in a way that is a clear-cut effort, as we see it, to circumvent not only the existing prohibitions on gambling in title 18, but more recently the 1992 legislation known as the Professional and Amateur Sports Protection Act, a bill which passed both Houses of Congress by overwhelming margins and reaffirmed the clear national policy that sports gambling is not something that we want to have available on a widespread basis, and that the det-

rimental effects in terms of what it does to sports, what kind of a message it sends to young people, and the kinds of pressures that it puts on athletes and coaches is not something that we want to go any further.

Since its inception, the NFL has sought to protect the integrity of the game and the threat presented by sports gambling. We believe that gambling on sports breeds corruption and undermines the values that our games represent, and particularly so for our youngest fans, for whom our players are heroes. The concerns that were expressed by the first panel concerning the ready availability of Internet gambling to children are something that underlies our support for this bill as well.

The League has in place strict policies regarding gambling, and anyone who violates those policies faces severe disciplinary action by the commissioner. We have, for example, advised the television networks that we regard sports gambling commercials and dissemination of betting information as inappropriate in the context of game telecasts, and we post our policies on gambling in every locker room and disseminate them to every player and every other individual associated with the NFL.

Congress has long recognized that gambling has no place in sports. Section 1084 of title 18 makes it a Federal crime to use wire communications facilities in interstate or foreign commerce for purposes of sports betting. As I mentioned, in enacting the 1992 Professional and Amateur Sports Protection Act, Congress took a further important step of prohibiting further legalization of sports betting in this country.

Despite these prohibitions, Internet sports gambling presents a serious and growing problem. While still more or less in its infancy, making this a propitious time for Congress to act and making your legislation particularly timely, Internet sports gambling is available throughout the world and is expanding rapidly. Some analysts, including the head of Rolling Good Times, have predicted that Internet gambling may be an industry in excess of \$8 billion a year by the year 2000.

Internet sites accessible from your home or office today offer our society a diverse range of gambling opportunities throughout the world. Any personal computer can be turned into a 24-hour-a-day unregulated casino where Americans can lose their life savings with the mere click of a mouse. These sites are designed to resemble video games, and therefore to be particularly attractive to young people. But, obviously, the risks associated with playing those games are very real and go far beyond playing a video game.

The issue that we are talking about today transcends the League's own interest in avoiding the problems associated with gambling. According to experts on problem gambling, access to illegal sports betting on the Internet dramatically increases the risk that people will become active, pathological gamblers. The National Council on Problem Gambling reports that sports betting is among the most popular form of gambling for compulsive gamblers in the United States.

Studies indicate that sports betting is a growing problem for high school and college students, who develop serious problems with gambling as a result of being introduced to sports betting. As the

Internet reaches more and more school children, Internet gambling is certain to promote even more gambling among young people. And because no one stands at the door of the virtual casino to check I.D.'s, our children will have the means to gamble on the family computer after school, or indeed, as computers become even more prevalent and the Internet more accessible in schools, perhaps at the school itself.

Although Internet sports gambling is clearly prohibited by title 18, we agree that it would be desirable to strengthen the tools available to enforce that prohibition, and your legislation, Mr. Chairman, does that in a number of important respects.

States have attempted to enforce State laws prohibiting Internet gambling operations, but issues of jurisdiction consistently confront them. Those who have moved their operations overseas have rather brazenly taken the position that our laws do not apply to their operations, and indeed they appear to be getting some assistance in that respect from foreign authorities.

General Doyle has previously stated, and he said it here again today, that it is very difficult for an attorney general like himself to go after a casino that may be operating in the Caribbean. Your bill, Mr. Chairman, will strengthen the tools available to enforce existing prohibitions on sports gambling, including those that prohibit transmission by wire communications through Internet gambling operations located offshore. It recognizes that gambling of all types, including sports betting, has moved beyond the casino and the cardroom and into another realm.

It will make it more difficult for Internet gambling operations to continue to exploit their wares in this country, and it will serve clear notice to persons who gamble on the Internet that that is wrong. It provides a much-needed civil enforcement mechanism. It will explicitly require service providers to discontinue service to gambling sites on written notice from law enforcement, and it specifically authorizes law enforcement agencies to seek prospective injunctive relief against continued use of the Internet for gambling purposes.

Those points, as well as the expanded criminal penalties, are all, we believe, very constructive steps that will not only serve to reinforce existing national policy on gambling, but will allow those laws to meet changing technology.

Nobody should confuse this legislation with an attack on the Internet. As you have repeatedly stated, Mr. Chairman, the Internet is an extraordinary and powerful communications tool with the potential to do much good in our society. The NFL uses the Internet today to disseminate information and communicate directly with its fans. But like any means of communication, the Internet has the potential for misuse. This bill will help ensure that the Internet will not be used as a means to violate the long-standing Federal policy against sports gambling.

Mr. Chairman, like the other witnesses who have appeared today, we very much appreciate your leadership on this issue. We think this is a constructive bill. We do not believe that there should be any serious objection to it and we strongly support its passage.

Thank you.

Senator KYL. Thank you very much, Mr. Pash.

Now, Ann Geer. Ann, welcome.

STATEMENT OF ANN GEER

Ms. GEER. Yes, thank you, Chairman Kyl. It is a pleasure to be here. I represent the National Coalition Against Gambling Expansion, which is a grassroots organization of hundreds of activists throughout the United States that have organized to literally wipe out the continual explosive expansion of legalized gambling in the United States.

Just like the supporters of your legislation, we are Republicans and Democrats, liberals and conservatives, and as you witnessed by being very kind in attending our last annual conference, we are book-ended by people of all stripes. We had presentations by both Ralph Reed and Ralph Nader, so that we are not coming at this as a moral argument, although there are some very strong moral arguments some would hold.

We frame our objection to the expansion of gambling, and in particular in this most predatory manner on the Internet, because we have become very well-versed in the negative cost factors associated with the expansion of legalized gambling. Throughout the United States, as industries have sought to capture more and more of the market in gambling, we have been able to understand what dollar figure cost is attached to this.

Specifically, we frame our concerns around what we would call the ABC's of Internet gambling. The potential for further addiction that would go literally unchecked; the idea that a person would be able to sit in front of a monitor, totally uncontrolled and unable to receive help, is just phenomenal in our mind. We have seen what addiction to gambling has done, and indeed it is the most rapidly increasing addiction in the United States today. There have been incidents of 10 to 20 percent of all of the addictive behavior resulting in suicides.

Perhaps the most predatory and the deepest concern that we have on addiction is with our young people. As you had stated, Jeff, earlier, young people are much more prone to the devastation of addiction, without having fully developed controls on their impulses. We know that that is a part of the growing process.

In my State of Massachusetts where we struggled very hard about an expansion of legalized gambling, we have at the Harvard Center for Addictive Studies Dr. Howard Shaffer, who has concentrated specifically on the needs and concerns of teenage addiction, and he has projected that we are going to, within 10 years, have a more serious problem with youth gambling than we currently have with youth drug use. In many ways, I see that this is what I would call bookie in a box preempts Joe Camel by a mile. It is a very, very deep concern.

On the issue of bankruptcy, a real cost, a dollar figure attached to it. More and more people who become compulsively addicted to gambling are losing tremendous amounts of money, especially costing their businesses a great deal of revenue. Professor John Kindt testified before the U.S. House of Representatives Small Business Committee and he stated at that time that a business with 1,000 workers can anticipate increased personnel costs of \$500,000 a year

due to job absenteeism and declining productivity simply by having various forms of legalized gambling accessible.

The accessibility of gambling on the Internet is very clear, even at the office station. It could just implode. We have seen instances where the expansion of legalized gambling that is already there, for instance, in Iowa, where the percentage of folks that have declared bankruptcy has just gone off the charts.

Finally, the whole issue of crime, not just the crime connected to those who are involved. Classically, we had seen in the beginning of gambling in the United States the involvement of organized crime. The potential for the great deal of money that could be made in this very unregulated business also provides a vast potential for organized crime, for laundering large amounts of money, for instance, and other types of crime perpetrated by those who become compulsively addicted to gambling.

So, again, we will support you in every way possible. All of our activists are going to be in touch with their legislators, their Senators, in particular, to support this bill. In particular, again, we extend to you a great thank you for all that you have done to help control this.

Senator KYL. Thank you very much, Ann. That was a great statement. I appreciate it very much.

[The prepared statement of Ms. Geer follows:]

PREPARED STATEMENT OF ANN GEER

Chairman Kyl and distinguished Members of the Subcommittee: I am Ann Geer, Chair of the Board of Directors of the National Coalition Against Gambling Expansion (NCAGE), a grassroots coalition of citizens and groups. Just like the sponsors of this legislation, we are Republicans and Democrats, conservatives and liberals, from every area of the United States.

Over the last ten years, we have seen legalized gambling explode across our nation.

In 1987, only Nevada and New Jersey permitted casino gambling. Today, twenty-four states host gambling casinos, ten states permit slot machines at racetracks, bars, convenience stores and truck stops, and twelve states have lotteries that offer casino-style keno games.

Now we are seeing a similar growth of gambling on the Internet. Nonexistent just a couple of years ago, nearly a dozen gambling sites appeared on the Internet by the beginning of 1997. This month, there are more than 30 World Wide Web sites which offer sports or casino-style gambling.

NCAGE is not an organization of moralists. We are not trying to stop Americans from gambling. We do not seek to close down Las Vegas. But we are trying to stop the expansion of legalized gambling because we believe it is bad for families, for businesses, and for whole communities. For society, the costs of gambling far exceed the benefits.

If we allow the expansion of gambling on the Internet, it has the potential to devastate our nation. Internet gambling will bring even higher costs and fewer benefits than conventional casinos, racetracks, or other gambling establishments.

Consider the A, B, C's of Internet gambling—addiction, bankruptcy and crime.

ADDICTION

Gambling is one of the fastest growing addictions in the country. This should concern all of us, because pathological gamblers destroy themselves and everyone around them. After losing all the money they have, they sell or pawn possessions, plead for loans from family and friends, and more often than not, end up stealing money. Under the stress of losing everything, many problem gamblers commit domestic violence and child abuse. Up to 80 percent of compulsive gamblers contemplate suicide and a growing number act on those plans.

Gambling addiction harms employers as well. As professor John Warren Kindt testified before the Small Business Committee of the U.S. House of Representatives:

"The best blue-collar and white-collar workers, Type-A personalities, are the most likely to become pathological gamblers. A business with 1,000 workers can anticipate increased personnel costs of \$500,000 or more per year [due to job absenteeism and declining productivity]—simply by having various forms of legalized gambling activities accessible to its workers." Consultants are now warning businesses that workers with Internet access will be tempted to gamble over the Web during office hours. "Corporations should be concerned about the impact [of Internet gambling] on workers," warned the MASIE Center, a technology think tank, in a 1997 report.

Experts have shown that the prevalence of gambling addiction is closely linked to the *accessibility* and *acceptability* of gambling in society. Like alcoholism, only a small percentage of Americans are susceptible to this disorder. But as more people try gambling in its various forms, more of those prone to the illness are exposed.

We have seen this demonstrated again and again the more legalized gambling a state makes available, the more pathological behavior is triggered. For example, in Iowa, the introduction of riverboats more than tripled the problem, causing the percentage of residents who were lifetime pathological or problem gamblers to rise from 1.7 percent in 1989 to 5.4 percent in 1995. And in Minnesota, as sixteen Indian casinos opened across the state, the number of Gamblers Anonymous groups shot up from one to forty-nine.

Internet gambling would multiply addiction exponentially. It would not only make highly addictive forms of gambling easily accessible to everyone, it would magnify the potential destructiveness of the addiction. Because of the privacy of an individual and his/her computer terminal, addicts could destroy themselves without anyone ever having the chance to stop them. Addicts could literally click their mouse and bet the house.

Internet gambling would also worsen the already serious problem of underage gambling and teenage addiction. Researchers now call gambling the fastest growing teenage addiction, with the rate of pathological gambling among high school and college-aged youth about twice that of adults. According to Dr. Howard J. Shaffer, Director of the Harvard Medical School Division on Addiction Studies, "Today, there are more children experiencing adverse symptoms from gambling than from drugs * * * and the problem is growing." Because of the anonymity of the Internet, there is no practical way to stop underage gambling. We will likely witness more and more kids borrowing/swiping credit cards from parents/others to gamble on-line.

BANKRUPTCY

It should be no surprise that gambling addicts go bankrupt. A number of studies have shown that 20 percent or more of compulsive gamblers eventually file for bankruptcy. In fact, "Gambling may be the single fastest-growing driver of bankruptcy," according to a 1997 study by SMR Research Corporation. This report also found that the number of bankruptcies increases with proximity to a casino. In areas near casinos, "[gambling-related bankruptcies account for a good 10 to 20 percent of the filings." On-line wagering will worsen our already-awful bankruptcy problem.

Internet gambling will also cause bankruptcy/economic ruin in another way, through the cannibalization of existing businesses. Money spent on gambling does not float out of the air, it is money that would otherwise have been spent on other products or services, usually money that would have been spent at restaurants, theaters and retail stores. A riverboat casino, for example, diverts revenues from local businesses, and those businesses are forced to lay off workers. Soon after casinos were legalized in the resort town of Deadwood, South Dakota, gambling became one of the top reasons for business bankruptcy in the region.

On-line gambling is even worse. In the case of a riverboat, the casino hires employees which tends to offset the jobs lost elsewhere. But this is not the case with Internet gambling, which has the potential to take huge sums out of the entertainment/retail economy all over the nation without creating any replacement jobs. It would be a black hole for the American economy.

CRIME

Wherever gambling goes, crime and corruption follow that is the history of gambling in America. The link between gambling establishments and large increases in crime has been exposed by numerous studies. Contemporary crooks target casinos and other gambling establishments because, as Willie Sutton would say, "that's where the money is."

On-line gambling poses novel problems in crime. For example, the Internet creates huge opportunities for cheating, especially by virtual casinos. There's just no way to tell if virtual dice, roulette or cards are rolled, spun or dealt randomly (that is, fairly) or whether they're responding to a sequence pre-planned to cheat cus-

tomers. More ominous is the fact that Internet gambling would provide a perfect front for organized crime. We're never going to know for certain who owns an Internet gambling site based in another country, but we do know that the mob always seeks involvement in gambling enterprises.

By exacerbating the problem of pathological gambling, Internet wagering will also spark an increase in financial crimes, such as embezzlement, check kiting, credit card fraud, loan fraud, insurance fraud, and tax evasion. Up to 90 percent of pathological gamblers commit crimes to pay off their wagering debts. Indeed, pathological gamblers are responsible for an estimated \$1.3 billion worth of insurance-related fraud per year.

WHY THE FEDERAL GOVERNMENT MUST ACT

Many states and jurisdictions have turned down casinos or other types of gambling because they want to avoid addiction, bankruptcy and crime. For example, in 1996, voters in Arkansas, Colorado, Nebraska, North Dakota, Ohio and Washington State overwhelmingly defeated referenda which would have expanded gambling. In 1997, state legislation to expand gambling was defeated in Alabama, Colorado, Hawaii, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, New York and West Virginia.

The long-held position of the federal government has been to allow states to permit gambling if they want it, but protect the policies of states that don't want gambling. Thus, for example, federal law allows lottery ads to be broadcast in states where lottery is legal but not in states where it is illegal (18 U.S.C. §§ 1304, 1307). Obviously, the Internet crosses all state boundaries. If gambling is allowed on the Internet, it takes away the power of state legislatures, tribal governments and voters to decide for themselves whether they want gambling in their jurisdictions. The only way to preserve the federal policy of keeping gambling a local decision is for Congress to make it clear that gambling on the Internet is illegal and give law enforcement authorities the tools they need to enforce the law.

ENACT S. 474

On behalf of the National Coalition Against Gambling Expansion and its thousands of supporters, I ask you to enact the Internet Gambling Prohibition Act, a common-sense measure designed to facilitate the enforcement of a long-standing federal policy.

Mr. Chairman, thank you.

QUESTIONS AND ANSWERS ON INTERNET GAMBLING AND S. 474, THE INTERNET GAMBLING PROHIBITION ACT

Question 1. Who supports S. 474?

Answer 1. S. 474, the Internet Gambling Prohibition Act, is sponsored by Senator Jon Kyl (R-AZ) and cosponsored by Senators Dianne Feinstein (D-CA), Slade Gorton (R-WA), Bob Graham (D-FL), Charles Grassley (R-IA), Tim Hutchinson (R-AR), Tim Johnson (D-SD), and Joseph Lieberman (D-CT). It was introduced on March 19, 1997.

S. 474 has been endorsed by the National Coalition Against Gambling Expansion, the National Association of Attorneys General, and FBI Director Louis Freeh. A spokesman for the American Gaming Association said the organization does not oppose this bill.

Question 2. What would S. 474 do?

Answer 2. S. 474 would: (1) make it clear that all types of interstate on-line gambling are illegal (clearing up ambiguities in existing law); (2) extend federal law to cover those who bet with a bookie or casino (but not bets between friends); (3) strengthen the ability of law enforcement agencies to cut off an on-line casino's phone service through the phone company and/or Internet service provider; and (4) encourage the Justice Department to enforce the laws against on-line gambling by requiring a report from the Attorney General within one year of enactment.

Question 3. What existing laws cover Internet gambling?

Answer 3. Title 18, Section 1084 of the United States Code provides that "Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers * * * shall be fined not more than \$10,000 or imprisoned not more than two years, or both."

It is clear that Internet gambling already violates federal law. See, e.g., *Op. FL Att'y Gen.* 95-70 (October 18, 1995). However, Section 1084 only covers individuals,

either bettors or receivers of bets, where are "in the business" of gambling. Further, the law contains language which makes some argue (we believe erroneously) that it applies to sports betting only, that is, to Internet bookies but not Internet casinos.

Internet gambling also violates state law in most (if not all) jurisdictions in the United States. While some actions can be, and are being, taken against on-line gambling by state law enforcement authorities, this problem would be best addressed by federal agencies.

Question 4. Is gambling on the Internet protected as "free speech" under the First Amendment of the Constitution?

Answer 4. In a long line of cases, dating back to 1878, the U.S. Supreme Court has consistently ruled that gambling is not protected by the First Amendment. The Supreme Court most recently rejected a First Amendment claim for gambling in *U.S. v. Edge Broadcasting Co.*, 113 S.Ct. 2696 (1993), holding that "gambling—implicates no constitutionally protected right; rather, it falls into a category of "vice" activity that could be, and frequently has been, banned altogether."

Question 5. Is gambling on the Internet legal when the site of the virtual casino or bookie is located in a country, state, or tribal reservation where gambling is legal?

Answer 5. It is clearly wrong to assert that gambling over the phone lines is legal if the casino or bookie is located in a place where Internet gambling is legal. Such an assertion is based on the fiction that the gambling actually "occurs" at the casino site and not at the other end of the phone line where the bettor is located. (See e.g., letter from the President of Sports International Ltd., an Internet bookie, reprinted in *Gambling On The Internet*, report of the National Association of Attorneys General, June 11, 1996.) In fact, federal courts have flatly rejected such arguments, pointing out that federal law bans the interstate or foreign transmission of wagers regardless of the location of the parties, and that Congress has the constitutional power to do so. See *Martin v. U.S.*, 389 F.2d 895 (1968).

Question 6. Are laws against Internet gambling enforceable?

Answer 6. If an Internet casino or bookie is located outside the United States, federal authorities will have difficulty arresting the perpetrators. Nevertheless, law enforcement agencies can obtain indictments and arrest warrants against Internet gamblers which brand them as fugitives from justice and restrict their travel. Even without S. 474, we believe the Justice Department could stop the bulk of Internet gambling by sponsoring a few "sting" operations and following up with highly-publicized prosecutions.

After S. 474 is enacted, law enforcement authorities would also be able to direct phone companies and Internet service providers to "pull the plug" on Internet gambling sites as well as obtain court injunctions to close down such sites.

Question 7. How common is Internet gambling today?

Answer 7. Just this year there has been a sharp rise in the number of gambling sites on the World Wide Web, from about a dozen at the beginning of 1997 to more than 30 today.

Internet gambling sites enjoyed net revenues of about \$17 million in 1996 (according to a research analyst for Christiansen/Cummings Associates, Inc., published in *International Gaming and Wagering Business* magazine, June 1997). This represents a tiny fraction of the \$44 billion in profits which legal gambling establishments earned in the U.S. last year.

If unchecked, however, some analysts project that within the next decade Internet gambling could generate as much as \$10 billion in profits each year.

Question 8. What is limiting the growth of Internet gambling?

Answer 8. Besides its illegality, on-line gambling suffers from three problems that are hindering its popularity.

First, like much of the graphic material on the World Wide Web, virtual casinos operate slowly and are thus pretty boring places right now. This problem will be fixed over time, however, as wire connections, hardware and software all get faster.

Second, many people feel uncomfortable sending their credit card information across the Web. Some on-line casinos/bookies invite players to set up accounts in foreign banks to facilitate gambling, but this solution is awkward and not very popular. This problem may soon disappear. Other methods to send money over the Internet (e.g. "cybercash") are being developed and tested, and are likely to become popular for on-line gambling within a short time.

Third and perhaps most important, users don't have any reason to trust Internet gambling sites (after all, they're already breaking the law by their existence). There is simply no way to know if a "virtual" roulette wheel or blackjack dealer is cheating the bettor. The gambling site's software can just as easily cheat as play fair. And even if the bettor "wins," there is no guarantee that he/she will ever collect (see e.g., *Wagering on the Web a Risky Business*, MSNBC, July 23, 1997, telling about a win-

ning better who couldn't get his cyberbookie to pay him). This problem can only be solved if well-respected companies own or operate gambling sites.

Question 9. What are some of the most talked-about Internet gambling sites?

Answer 9. The Coeur d'Alene tribe in Idaho has a Web site offering the "U.S. Lottery." A similar effort to open a nationwide lottery using an 800 number and operators was killed last year when several state Attorneys General objected. Attorney General Jay Nixon of Missouri filed suit against the tribe's Internet operation on May 28.

Missouri's Attorney General Jay Nixon recently obtained an injunction and \$66,000 in penalties against Interactive Gaming & Communications Co. (IGC), the Pennsylvania-based parent company of Sports International (an Internet bookmakingsite) and Global Casino (an on-line casino), both based in Grenada. On June 26, a grand jury in Missouri also indicted IGC and its president, Michael Simone.

Minnesota's Attorney General Hubert (Skip) Humphrey filed suit for fraud against Granite Gate Resorts, Inc., a Las Vegas-based company, after it advertised that it would offer Internet gambling from a site in Belize. Humphrey won the first legal settlement when a judge ruled last December that the state could prohibit Internet gambling.

Maryland's Attorney General Joe Curran ordered RealTIME Prizes Network, a Maryland-based Internet gambling company, to close. The company agreed in February 1997 to comply with Curran's order.

The tiny country of Lichtenstein started selling lottery tickets through the Internet in 1995. Earlier this year, the International Red Cross planned to become a sponsor of the Lichtenstein lottery in exchange for 25 percent of the wagers, but the Red Cross later canceled the plan, responding to international pressure.

A few Internet gambling companies are publicly traded, including IGC, United Casino (operating a virtual casino based on Cook Island), Playstar Co. (a Delaware-registered company operating from Toronto which plans to open a Caribbean-based virtual casino), and VentureTech Inc. (a Reston, Virginia company developing gambling site).

Question 10. What is wrong with gambling on the Internet?

Answer 10. Generally, the social and economic costs of gambling far outweigh the economic benefits. Internet gambling will bring even higher costs and fewer bettors than conventional casinos, racetracks, or other gambling establishments.

Consider the A, B, C's of gambling—addiction, bankruptcy, crime. All three of these are worse with Internet gambling. (See testimony of Ann Geer, chair of NCAGE.)

Question 11. Why should the federal government (instead of states) act against Internet gambling?

Answer 11. Many states and local jurisdictions have turned down casinos or other types of gambling because they want to avoid addiction, bankruptcy and crime. For example, in 1996, voters in Arkansas, Colorado, Nebraska, North Dakota, Ohio and Washington State overwhelmingly defeated referenda which would have expanded gambling. In 1997, state legislation to expand gambling was defeated in Alabama, Colorado, Hawaii, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, New York and West Virginia.

The long-held position of the federal government has been to allow states to permit gambling if they want it, but protect the policies of states that don't want gambling. Thus, for example, federal law allows lottery ads to be broadcast in states where lottery is legal but not in states where it is illegal (18 U.S.C. §§ 1304, 1307). Obviously, the Internet crosses all state boundaries. If gambling is allowed on the Internet, it takes away the power of state legislatures, tribal governments and voters to decide for themselves whether they want gambling in their jurisdictions. The only way to preserve the federal policy of keeping gambling a local decision is for Congress to make it clear that gambling on the Internet is illegal and give law enforcement authorities the tools they need to enforce the law.

Question 12. Why do we need to act now to stop Internet gambling?

Answer 12. If we want the Internet to grow and prosper, individuals have to feel that it is an appropriate location for legitimate business. The Internet is a new place, but it must not be a lawless place. On-line gambling gives a black eye to business on the Internet. Still, Internet gambling is in its infancy; there are only a few gambling sites. It is practical, today, to identify and stop these gambling businesses. If we let them go another year or two, Internet law enforcement will become much more difficult or impossible.

Senator KYL. Anthony Cabot?

STATEMENT OF ANTHONY CABOT

Mr. CABOT. Thank you, Senator. I am pleased to be here today to discuss what I think are the substantial challenges that both the State and the Federal Governments have in policing Internet gambling.

While all Internet gambling prosecutions to date have resulted from State-instigated legal action, Internet gambling prosecution can only be done on a Federal level, and even then it will be a daunting task. Historically, Federal gaming laws have been designed to assist the States in enforcing their own public policies. Most Federal gaming laws, for example, predicate a Federal offense on a violation of State law.

This Federal assistance has been welcome. States have long recognized that the Federal Government has better resources and broader jurisdiction to deal with interstate and international crimes. As a practical matter, I think that most State governments realize that Internet gambling is an area where Federal assistance is needed if they are to retain the ability to set gambling policies within their own borders.

This is not limited to States that prohibit gambling that now find that home computers are slot machines and sports books, but includes places like my home State of Nevada, where gaming regulators recognize that Internet gambling frustrates their goals of assuring the honesty of the games and limiting them to appropriate adult venues.

Three factors, I believe, make Internet gambling more susceptible to Federal regulation than traditional forms of gambling. The first is the nature of the Internet. If all forms of Internet gambling are prohibited in interstate and foreign commerce, the typical Internet gambling operator that wants to cater to U.S. patrons will operate out of a foreign country. Most will use sophisticated methods to hide the ownership of the Internet site, such as a web of offshore holding companies.

Additionally, the evolving use of digital cash will make tracing financial transactions very difficult. Moreover, most Internet gambling operators will probably use encryption techniques to hide the nature of their communication from prying eyes.

Regulating Internet gambling presents technical and legal problems that States are ill-equipped to handle. Few, if any, States have the ability to weed through complicated corporate structures to find the true owner of a gambling Internet site. Likewise, few have the technical expertise or equipment to trace funds or decipher encrypted messages. State governments also face the problem of finding resources to address in a piecemeal fashion an international phenomenon.

I wholly agree with the recent statement by the Florida attorney general's office that:

Evolving technology appears to be outstripping the ability of government to regulate gambling activities on the Internet and of law enforcement to enforce such regulations. Thus, resolution of these matters must be addressed at a national, if not international, level.

I think this also introduces the second reason why this is a Federal issue. Any successful enforcement will require international cooperation. States have limited ability to conduct investigations in

foreign countries and no authority to effectuate the arrest and extradition of criminals in foreign countries. As important, States cannot enter into treaties with foreign countries to gain international cooperation to deal with Internet issues.

The third and final reason why this is a Federal issue is that States will confront legal hardships when attempting to prosecute Internet gambling cases that their Federal counterparts will not encounter. I will give you an example in another area. A recent New York Federal court case came down last month and it held that a New York State statute that governed pornography on the Internet violated the commerce clause of the U.S. Constitution under something called the dormant commerce clause. Internet gambling operators will challenge State laws governing Internet gambling on similar grounds. Moreover, States face significant jurisdictional issues that are far more complex on a State level than a Federal level.

Now, while the Federal Government is better suited to asserting jurisdiction over interstate and international online activities, it also faces two major challenges when dealing with Internet gambling. The first is the antiquity of the current Federal laws. From a legal perspective, the bill being considered today would effectively bring the Wire Communication Act into the computer age. The key deficits with application of current law to Internet gambling would be solved by this bill's expansion of the definition of a communication facility, by its removing of ambiguities caused by the words "sporting event or contest," and by broadening the definition of a bet or wager.

Moreover, I think it is important to note that I don't believe this bill impairs the States' rights to set gambling policies within their own borders, and I will give you an example. Most States allow parimutuel wagering. The exceptions to this general prohibition will allow licensed tracks to continue to merge pools between the various States. I don't believe, also, that the bill is intended to, and does not appear to affect the traditional forms of legal gambling that are now legal in 48 of the 50 States. Moreover, it does not prohibit purely intrastate activities.

I think the final and more substantial challenge that the Federal Government is going to have is acquiring jurisdiction over the foreign-based operators. I note that section 4 of the proposed bill would urge the President to enter negotiations with foreign countries to enable prosecution of those who are accepting bets from within the United States.

In closing, I want to reiterate that this is not a luxury, but a necessity, if the Federal Government hopes to be successful. The ability to enforce this law is as important as the substantive changes to the law itself.

Senator KYL. Thank you very much. This has been a very important panel. I express my personal appreciation to each of you. I would like to ask several questions of you, if I could.

Let me start with you, Mr. Pash. Why is the National Football League, in particular, and I suspect other professional sports organizations, concerned about gambling with respect to their sports?

MR. PASH. Well, Mr. Chairman, there are a number of reasons. Obviously, there have been problems in sports in the past where

gambling has resulted in point-shaving scandals and caused fans to question the integrity of the sporting event itself. That is a very, very negative thing for anyone in the sports business.

But beyond simply a business standpoint, one of the things that I think makes sports special in this country and what makes it so attractive is that the players, in particular, are seen as heroes, as role models for children. And gambling on sports, and particularly gambling in such an unregulated way where children have ready access to it, as would be the case on the Internet, sends exactly the wrong message.

We don't play the game anymore to enhance values of good sportsmanship, fair play; to develop skill on the playing field or to simply enjoy the marvelous feats of athleticism that we see from professional football players and other professional athletes. Instead, now we are playing it to see whether a team beats the spread or not, whether a player gains as many yards as you had bet he would gain, who is going to score first. All of that is the wrong reason for people to be involved in sports. It sends a very destructive message to young people.

And I think it can't be overstated that this is a debate which has been had and has been decisively resolved as recently as 1992 when both Houses of Congress passed by overwhelming margins the Professional and Amateur Sports Protection Act and made clear that the national policy is that there should not be further sports betting.

Senator KYL. And I should have made a point that this applies to amateur as well as professional athletics. One of the statistics that I read in U.S. News and World Report is, in 1995, Super Bowl bettors placed \$69 million in legal wagers and \$4 billion illegally. I gather that the Internet will only increase the potential for that illegal betting to occur, in your view.

Mr. PASH. Absolutely, it can only increase it. It can only make it more accessible and it can only cause more people to suffer the kind of financial and psychic losses that Ann Geer referred to in her testimony.

Senator KYL. And let me ask the two of you, you have read our legislation. Is there anything that would prohibit me from logging on with a friend of mine and placing a friendly wager on my—let us use the World Series instead of football, but that my team is going to beat your team and here is \$10 that says so?

Mr. PASH. I don't think there is anything in this bill that changes current law in that respect, no.

Mr. CABOT. That is correct.

Senator KYL. I think that at least that was the intention. Thank you.

One final question for you, Mr. Pash. Is there anything else that you think we can do to strengthen this legislation, and also what more can be done voluntarily to help us curb gambling on the Internet?

Mr. PASH. Well, let me start with the second point on voluntary action. There have been—and I know, Mr. Chairman, that you are very sensitive to this—a number of suggestions from persons involved in the Internet gaming industry, including, I might note, the president of the Rolling Good Times organization, that Congress

ought to stay its hand and allow the industry to develop a code of self-regulation.

This is a little bit like turning the hen house over to the fox because the same people who are saying, "we are operating off-site, we are operating in the Caribbean, you can't stop us"—in other words, "you can't stop us from stealing eggs"—suddenly, they are telling us now, "Well, if you simply regulate us, we will only steal as many eggs as you permit us to."

I think you have heard very, very powerful testimony from Senator Bryan and General Doyle and Professor Cabot indicating that regulation is not likely to be a very effective alternative. At least from the point of view of the NFL, we think that regulation would be a very substantial step backwards. We are now in a world where everyone agrees that sports betting on the Internet is unlawful. To effectively opt for a regulatory approach would be to legalize that which Congress has repeatedly prohibited, and I think regulation will ultimately be ineffective.

In terms of areas in which the bill itself could be strengthened, there are, I think, as I indicated in my testimony, very, very substantial steps forward that this bill takes and we are very pleased with it. I think there may be a number of areas relating to FCC common carrier jurisdiction, perhaps on strengthening of the civil injunction remedies, and we would be very pleased, if the chairman would like, to submit some of these proposals in writing to your staff for whatever use they would like to make of them.

Senator KYL. Please, we would appreciate that very much because, of course, the key enforcement mechanism here, since it may be impossible to acquire personal jurisdiction over someone offshore, is to have, as a result of the FCC regulatory authority, the service provider, pursuant to court order, pull the service of the entity doing the gambling, as a result of which you can control electronically the continuation of the gambling even though you can't necessarily prosecute the individuals behind it. That is the theory, anyway.

Ann Geer, your testimony was powerful, and I read something I would like to ask you to comment on. The Council on Compulsive Gambling says that 5 percent of all gamblers become compulsive gamblers, and I think you talked about a 5-percent addiction rate, if I might recall your testimony. My understanding is that 90 percent of that group also then turn to crime of some kind, and up to 80 percent of that group, of the 5 percent of compulsive gamblers, contemplate suicide. Fourteen percent actually attempt it, according to your testimony.

If Internet gambling continues to grow, could you expand a little bit on your view of what will happen with respect to these statistics, particularly as it relates to children? I will stop there because I have one other question.

Ms. GEER. All right. The whole issue of addiction has been in flux because of the last 10 years' incredible increase in legalized gambling and opportunities, and there is a direct corollary between opportunities to gamble and the rate of addiction. Iowa, in 6 years, after the introduction of riverboat casinos—their rate of pathological addicted gambling went from 1.7 to 5.4 percent, so there is a direct corollary.

Now, the figures that the Council on Compulsive Gambling has ascertained relate to what I would consider a baseline before the tremendous expansion, and so we don't even know that it is going to cut off at 5 percent. In the youth population, Dr. Shaffer's work is showing us that there is an issue of biochemistry involved in youth development and impulse control issues.

As many of you probably know, a lot of criminal behavior is oftentimes attributed to lack of impulse control and is a pathological condition. Although I am not saying that our young kids are pathological, there is the reality that until the blood-brain barrier develops, there is less ability to control impulsive behavior. Gambling is an impulsive behavior, and that is why things like Internet gambling appeal so much because of the rapidity with which games can be played.

For instance, a Keno game pays off every 5 minutes. When you are playing games and gambling on the Internet, the payoff can be a lot quicker than that. That makes our youth population that much more vulnerable to addiction. Things that we have seen locally reported to us by all of the folks who work on our coalition where sports gambling in the high schools, for example—stealing of the parents' credit cards, or relatives', taking money, breaking into convenience stores, really commencing a life in crime in order to feed that addiction—Internet gambling literally opens the kind of Pandora's box in which we have absolutely nothing with which to compare it.

Senator KYL. Now, isn't there a second element to this? And I think Attorney General Doyle touched on this in what he presented on the screen a moment ago. And what is your experience as far as this aspect of it is concerned? As Senator Bryan indicated, if you gamble in Las Vegas, it is very strictly regulated, but on the Internet there is no way to control it, as was pointed out. As a result, some of these sites start out with a very winnable game and it is almost impossible to lose.

As you commit yourself deeper and deeper to the game, the opportunity to lose increases substantially. As a matter of fact, there is no ability to even control a fraudulent situation in which, though you may win, you never get paid off, but they have got your credit card number. How does that aspect of this phenomenon affect the behavior that you have studied, when it has been scientifically studied?

Ms. GEER. Well, obviously, you know, gambling goes way back to the old shell game. You know, it is easier when you first start and you are absolutely convinced that you are going to win because it is so easy. That is the whole dynamic. That is part of the whole marketing of the concept of gambling, so that the issue of regulation—and I understand that was some of the concern—is the thing that concerns us the most gravely.

We have as a coalition worked very hard to curtail the expansion of gambling. In 1996, six State referenda were overwhelmingly supporting no expansion of gambling in six different States. In 1997, to date, to this day, 14 States have turned down legislative initiatives. Any initiative that passes, however, we then put all of our energy into regulation, using a model of Nevada in many cases to strengthen the regulations so that even though folks are saying,

OK, we want to have gambling, we understand those controls need to be in place. We have no strategy of dealing with the possibility of gambling on the Internet.

Senator KYL. Well, thank you very much for that clarifying testimony.

Anthony Cabot, there are a lot of legal issues that I will enjoy further visiting with you about. There are a couple that I would specifically like to get on the record here. Senator Feinstein and I have tried to work very carefully to ensure that our bill in no way impinges on the first amendment. Neither one of us has a desire to raise any questions with this legislation. We want it to be very clear-cut and not subject to any contention that we are even getting close to a constitutional problem.

The Congressional Research Service recently issued a report on Internet gambling which concluded that:

The first amendment has rarely been seen as an impediment to the enactment or enforcement of antigambling laws, even in cases that involved elements of expression.

In a 1993 case, *U.S. v. Edge Broadcasting Company*, the Supreme Court ruled:

Gambling implicates no constitutionally protected right. Rather, it falls into a category of vice activity that could be, and frequently has been, banned altogether.

In your view, after reviewing our legislation, have we accomplished our goal of banning a prohibited activity without implicating a constitutional right?

Mr. CABOT. Senator, I believe you have. I think it is important to note that you have no constitutional first amendment rights to engage in gambling. So the only thing that the bill has to be careful of, and was very careful of, was to ensure that it was not overbroad; that it identified the transaction that it wanted to prohibit and did it as narrowly as possible. I think you have accomplished that vis-a-vis both the operator and the home user.

There is also a provision with regard to the Internet service providers. However, I think that your provisions in that bill which allow for a hearing and a decision before the court before the Internet service provider is required to cut off service to a particular site clearly fall within the purview of the first amendment.

Senator KYL. Now, with respect to that, assuming that there is an off-site provider, are there any constitutional issues that you are aware of involving an attorney general, let us say, going into court, or the U.S. attorney, saying "here is the site right here, judge; we can pull it up online right now," just as we have here in the hearing, "you can see what they are clearly doing, inviting people to call this number or give us the credit card, or whatever, and we can demonstrate exactly how it works here?"

Those people are therefore illegally asking people in the State of Arizona, for example, to engage in a clearly prohibited activity. You presumably provide some kind of notice to the entity, wherever it may be located, giving them an opportunity to appear. Assuming that that notice is reasonable, is there anything else that you have to do in order to acquire jurisdiction essential to the enforcement of a subsequent court order to enjoin the further activity, for example?

Mr. CABOT. I don't believe so. I think that the procedures that you have put in the bill are consistent with what the prior court decisions from the U.S. Supreme Court have been vis-a-vis prior restraint and other issues going to the first amendment.

Senator KYL. Obviously, the virtual casino could come and defend itself, argue the constitutional questions or anything else it may wish to.

Mr. CABOT. Yes. I think they would come in and argue, if they could, that they were not a prohibited site. I don't know if they could argue that there was any first amendment right to be doing what they are doing.

Senator KYL. So you think their only argument is going to be a factual one, not a legal one in this case?

Mr. CABOT. That is correct.

Senator KYL. Finally, you talked very directly to the Federal versus State responsibility and jurisdiction here, and I was going to ask you about that, but you have really covered that very well, as did Attorney General Doyle, noting that there is jurisdiction in both places, but it is virtually impossible for the State to enforce its jurisdiction. But working together, if we have this Federal legislation, the State and Federal Governments could work together in the enforcement of it, and that represents the best potential for regulating the elicit activity.

Mr. CABOT. Yes, Senator, and I think you have to understand, at least from my perspective, that gambling is just one issue out there. I mean, there are pornography issues. There are computer crime issues. There are fraud issues. I mean, these are all issues that are going to have to be addressed, and they have to be addressed on an international level with the cooperation of the Federal Government and the various countries throughout the world so they can get a handle off of them. Otherwise, the Internet will be a very dangerous place to do business.

Senator KYL. And we have, I think, followed—I am not sure whether it was your suggestion or others' to call for the study of the administration internationally to find ways to enhance that international cooperation.

I would also note that this subcommittee has looked very carefully at the difference between prohibiting criminal activity and trying to regulate activity on the Internet. I, for one, have no desire to regulate activity on the Internet. It is an impossibility. It is not the right thing to do and it would probably be constitutionally prohibited. The recent case on pornography suggests that it is a very difficult thing to do, at best.

We are only interested—in two other areas, we do try to prohibit criminal activity—in doing just that, in effect, allowing the law to catch up with evolving technology. So we do have a consumer fraud, telemarketing fraud kind of a bill that is, in effect, a sister bill to this. We are just interested in taking those activities that are illegal if you do them in some other forum and bringing the law up to date, since we now have something called the Internet that didn't exist when the law was originally written, and putting, in effect, a comma at the end of the sentence and saying “and also if you do it on the Internet.”

That is, in policy terms, all we are trying to do with this legislation. But also in policy terms, all three of you have eloquently stated the reasons why, as public policy, it is important for the Congress to quickly act in this matter. We have the constitutional right to do so and the social responsibility to do so. I think this panel has—somebody mentioned bookends before, but I think it has provided the A to Z of the arguments for what we need to do and why, and I appreciate all three of you testifying very much.

If any of the three of you have anything to add, please do so at this time, but we will keep the record open for your written comments if you would like to submit them. Thank you all very much for appearing.

I would suggest that if anybody else would like to provide information to the subcommittee, we would be delighted to receive that. We will keep the record open for a brief period of time so that you may do so.

If there is nothing else before the subcommittee, we will adjourn.
[Whereupon, at 3:16 p.m., the subcommittee was adjourned.]

APPENDIX

PROPOSED LEGISLATION

II

105TH CONGRESS
1ST SESSION

S. 474

To amend sections 1081 and 1084 of title 18, United States Code.

IN THE SENATE OF THE UNITED STATES

MARCH 19, 1997

Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. HUTCHINSON, Mr. GRASSLEY, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend sections 1081 and 1084 of title 18, United States Code.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Internet Gambling
5 Prohibition Act of 1997".

6 SEC. 2. DEFINITIONS.

7 Section 1081 of title 18, United States Code, is
8 amended—

9 (1) in the matter immediately following the
10 colon, by designating the first 5 undesignated para-

1 graphs as paragraphs (1) through (5), respectively,
2 and indenting each paragraph accordingly;

3 (2) in paragraph (5), as so designated—

4 (A) by striking “wire communication” and
5 inserting “communication”;

6 (B) by striking “transmission of writings”
7 and inserting “transmission or receipt of data,
8 writings”; and

9 (C) by striking “or other like” and all that
10 follows before the period and inserting “radio,
11 electromagnetic, photo-optical, photoelectric, or
12 other similar facility”; and

13 (3) by adding at the end the following:

14 “(6) BETS OR WAGERS.—The term ‘bets or wa-
15 gers’—

16 “(A) means the staking or risking by any
17 person of something of value upon the outcome
18 of a contest of chance or a future contingent
19 event not under the control or influence of the
20 person, upon an agreement or understanding
21 that the person or another person will receive
22 something of value in the event of a certain out-
23 come;

24 “(B) includes the purchase of a chance or
25 opportunity to win a lottery or other prize; and

1 “(C) does not include—

2 “(i) a bona fide business transaction
3 governed by the securities laws (as that
4 term is defined in section 3(a)(47) of the
5 Securities Exchange Act of 1934 (15
6 U.S.C. 78c(a)(47))) for the purchase or
7 sale at a future date of securities (as that
8 term is defined in section 3(a)(10) of the
9 Securities Exchange Act of 1934 (15
10 U.S.C. 78c(a)(10)));

11 “(ii) a contract of indemnity or guar-
12 antee; or

13 “(iii) a contract for life, health, or ac-
14 cident insurance.”

15 **SEC. 3. TRANSMISSION OF WAGERING INFORMATION; PEN-**
16 **ALTIES.**

17 Section 1084 of title 18, United States Code, is
18 amended—

19 (1) by striking subsections (a) and (b) and in-
20 serting the following:

21 “(a) IN GENERAL.—

22 “(1) PERSONS ENGAGED IN THE BUSINESS OF
23 BETTING OR WAGERING.—Whoever, being engaged
24 in the business of betting or wagering knowingly
25 uses a communication facility for the transmission

1 or receipt in interstate or foreign commerce of bets
2 or wagers, information assisting in the placing of
3 bets or wagers, or a communication that entitles the
4 transmitter or receiver to the opportunity to receive
5 money or credit as a result of bets or wagers, shall
6 be fined not more than \$10,000, imprisoned not
7 more than 2 years, or both.

8 “(2) OTHER PERSONS.—Whoever (other than a
9 person described in paragraph (1)) knowingly uses a
10 communication facility for the transmission or re-
11 ceipt in interstate or foreign commerce of bets or
12 wagers, information assisting in the placing of bets
13 or wagers, or a communication that entitles the
14 transmitter or receiver to the opportunity to receive
15 money or credit as a result of bets or wagers, shall
16 be fined not more than \$5,000, imprisoned not more
17 than 1 year, or both.

18 “(b) EXCEPTIONS.—

19 “(1) NEWS REPORTING; LEGAL BETS AND WA-
20 GERS.—Nothing in this section shall be construed to
21 prohibit the transmission or receipt in interstate or
22 foreign commerce of any information—

23 “(A) for use in the news reporting of any
24 activity, event, or contest upon which bets or
25 wagers are based; or

1 “(B) relating to the placing of bets or wa-
2 gers, if such betting or wagering—

3 “(i) is legal in the State or foreign
4 country in which the transmission origi-
5 nates; and

6 “(ii) is legal in each State and each
7 foreign country in which the transmission
8 is received.

9 “(2) STATE LAW.—Nothing in this section shall
10 be construed to preempt any State law.”; and

11 (2) in subsection (d)—

12 (A) by striking “(d) When” and inserting
13 the following:

14 “(d) DUTIES OF COMMON CARRIERS AND INTER-
15 ACTIVE COMPUTER SERVICE PROVIDERS.—

16 “(1) IN GENERAL.—If”;

17 (B) by inserting “or interactive computer
18 service provider” after “common carrier” each
19 place that term appears;

20 (C) by striking “Nothing” and inserting
21 the following:

22 “(3) JUDICIAL ACTION.—Nothing”; and

23 (D) by inserting after paragraph (1), as so
24 designated by subparagraph (A) of this para-
25 graph, the following:

1 “(2) INJUNCTIVE RELIEF.—Any Federal, State,
2 or local law enforcement agency acting within its ju-
3 risdiction, shall have the authority, following the is-
4 suanee of a notice under paragraph (1), to seek an
5 injunction or other appropriate relief from a Federal
6 or State court of competent jurisdiction barring ac-
7 cess to the communication facility at issue or pre-
8 venting the use of such facility for the purpose of
9 transmitting or receiving gambling information in
10 interstate or foreign commerce in violation of Fed-
11 eral, State, or local law.”.

12 **SEC. 4. SENSE OF THE SENATE.**

13 It is the sense of the Senate that the Federal Govern-
14 ment should have extraterritorial jurisdiction over the
15 transmission to or receipt from the United States of—

16 (1) bets or wagers (as that term is defined in
17 section 1081 of title 18, United States Code);

18 (2) information assisting in the placing of bets
19 or wagers; and

20 (3) any communication that entitles the trans-
21 mitter or recipient to the opportunity to receive
22 money or credit as a result of bets or wagers.

1 SEC. 5. REPORT.

2 Not later than 360 days after the date of enactment
3 of this Act, the Attorney General shall submit a report
4 to Congress that includes—

5 (1) an analysis of the problems, if any, associ-
6 ated with enforcing section 1084 of title 18, United
7 States Code, as amended by this Act;

8 (2) recommendations for the best use of the re-
9 sources of the Department of Justice to enforce that
10 section;

11 (3) recommendations for the best use of the re-
12 sources of the Federal Communications Commission
13 to enforce that section; and

14 (4) an estimate of the amount of activity and
15 money being used to gamble on the Internet (as that
16 term is defined in section 230(e)(1) of the Commu-
17 nications Act of 1934 (47 U.S.C. 230(e)(1)).

○

ADDITIONAL SUBMISSIONS FOR THE RECORD

PREPARED STATEMENT OF HON. BOB GRAHAM, A U.S. SENATOR FROM THE STATE OF
FLORIDA

Mr. Chairman, as an original co-sponsor of the Internet Gambling Prohibition Act of 1997, I am pleased that you and the subcommittee are holding a hearing on this important issue. I joined you as a co-sponsor in recognition that advances in technology carry with it a responsibility to ensure appropriate use. It is vitally important that we ensure that state laws regulating the gaming industry are not circumvented either purposefully or inadvertently by those who use the Internet.

There are two issues of paramount concern associated with Internet gambling: the unregulated access to gambling in states which prohibit such activity, and the more significant issue of access to gambling by underage users.

The State of Florida has long recognized the importance of regulating Internet gambling. In 1995, Attorney General Bob Butterworth rendered an opinion regarding the need to regulate the Internet gambling industry.

Rapid changes in technology, however, appear to be outstripping both the law and law enforcement's ability to effectively regulate this activity. Due to the changes in technology and the increasing accessibility of the Internet via personal computers, it is now possible to use a personal computer to gamble and place bets around the world. * * * As Internet technology continues to evolve, the number of users increases exponentially, making it extraordinarily difficult to adopt and implement durable and effective enforcement mechanisms. Without question, technology has jumped ahead of the law and law enforcement.

Mr. Chairman, I offer for inclusion in the official record the attached letter from the Honorable Robert A. Butterworth, Attorney General of the State of Florida. I also offer a letter from Mr. James T. Moore, Commissioner of the Florida Department of Law Enforcement. I provide these letters as I feel they clearly add to the body of evidence supporting the need for regulating the Internet gaming industry.

Thank you.

STATE OF FLORIDA,
Office of Attorney General.

The Honorable BOB GRAHAM,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRAHAM: I urge you to co-sponsor the Gambling Prohibition Act, currently sponsored by Senator John Kyl to reform the Federal Anti-Wagering Act to more fully encompass illegal Internet gambling and to encourage federal-state co-operation.

A task force of state Attorneys General researched current and likely future illegal gambling activity on the Internet and believes such activity will grow exponentially in the absence of clearly articulated federal and state legal policy.

The principal federal law in this area, 18 U.S.C. sections 1081 and 1084 is deficient in its ability to encompass internet gambling, and there is an urgent need to amend those statutes. The Internet Gambling Prohibition Act provides these important amendments, and I urge you to join Senator Kyl in sponsoring it in the 105th Congress.

Sincerely,

ROBERT A. BUTTERWORTH,
Attorney General.

July 29, 1997.

Hon. BOB GRAHAM,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

Subject: Internet Gambling Prohibition Act of 1997/S. 474

DEAR SENATOR GRAHAM: I am writing to express the support of the Florida Department of Law Enforcement for passage of S. 474. We are particularly appreciative of your leadership in cosponsoring this important piece of legislation.

The Department is mindful of the many constructive and useful services that the Internet provides. Indeed, FDLE uses the Internet with great success to make information concerning sexual predators available to our citizens. However, we have also seen how this versatile tool can be harnessed for criminal purposes. For example, FDLE has investigated a number of cases in which pedophiles have attempted to lure unsuspecting children through use of the Internet.

FDLE is also aware that the Internet is being used to facilitate illicit gambling. FDLE has long been a vocal opponent of the repeated efforts to introduce casino gambling in Florida. A majority of Florida's voters have agreed. We are no less opposed to virtual casinos on the Internet. In either case, the threat of stimulating increased criminality spawned by such unrestricted gambling remains quite tangible.

As you are aware, Florida has a number of criminal gambling statutes in place. However, the issue of Internet gambling is an appropriate area for federal intervention in light of the interstate and international scope of the Internet. Please be assured of FDLE's continued support of your efforts in this regard.

If I or any member of FDLE may be of service to you, please feel free to call upon us.

Sincerely,

JAMES T. MOORE,
Commissioner.

STATEMENT REGARDING INTERNET GAMBLING—OCTOBER 18, 1995

In response to the following question:

Is a Florida resident prohibited from gambling in the Internet or using a telephone to place bets outside the state?

In sum:

Federal law currently prohibits an individual engaged in the business of betting or wagering from using wire communications for the transmission of information that assists in the placing of bets or wagers, while Florida law prohibits an individual within this state from placing a bet or wager. However, evolving technology appears to be far outstripping the ability of government to regulate gambling activities on the Internet and of law enforcement to enforce such regulations. This resolution of these matters must be addressed at the national, if not international, level.

Under Florida law it is illegal to participate in any game of chance for money or other thing of value.¹ Moreover, section 849.14, Florida Statutes, provides in pertinent part:

Whoever stakes, bets or wages any money or other thing of value upon the result of any trial or contest of skill, speed or power or endurance of any man or beast * * * or whoever knowingly becomes a custodian or depository of any money or any thing of value so staked, bet, or wagered upon any such result, * * * shall be guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083.

Federal law currently provides:

Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.² In order for a violation of this federal provision to occur, the transmitted information must have assisted in the placement of bets or wagers and the individual charged must have engaged in the business of wagering or betting at the time of

¹ See §849.08, Fla. Stat. (1995), providing that whoever plays or engages in any game at cards, keno, roulette, faro or other game of chance, at any place, by any device whatever, for money or other thing of value, shall be guilty of a misdemeanor of the second degree. See also, Art. X, §§7 and 15, Fla. Const., and §849.09, Fla. Stat. (1995), prohibiting the operation or conduct of any lottery except the state-run lottery.

² 18 U.S.C. §1084(a).

the offense.³ While 18 U.S.C. § 1084(b) allows for the transmission in interstate and foreign commerce of information assisting in the placement of bets or wagers on a sporting event or contest from a state or foreign country where such betting is legal into a state or foreign country in which such betting is legal, in light of Florida's prohibition against gambling, the exception would not be applicable to gambling activities in Florida, including those taking place by wire communication or via the Internet.⁴

Thus, federal law would prohibit a bookmaker from transmitting betting or wagering information by wire communication to persons in Florida, while state law would prohibit an individual in Florida from placing a bet or wager by wire communication.

Rapid changes in technology, however, appear to be outstripping both the law and law enforcement's ability to effectively regulate this activity. Due to the changes in technology and the increasing accessibility of the Internet to private individuals via personal computers, it is now possible to use a personal computer to gamble or place bets around the globe.

The Internet is an unregulated world-wide network of computer systems, connected by high-speed wire communications and sharing a common protocol that enables them to communicate with one another. Originally conceived to serve government and educational purposes, the Internet has burgeoned in the last few years as more and more private citizens have obtained access through public employers and commercial service providers. Popularity on the Internet has grown dramatically with the advent of so-called "web browser" programs designed to allow users to more easily navigate the Internet and its graphical component, the World Wide Web. These programs offer users the opportunity to view pictures and hear sounds from around the world, and to move from one location to another simply by highlighting and selecting the destination they wish to visit.

The potential benefits of the Internet and World Wide Web are profound, particularly in the areas of education, commerce and public access to government records. However, the explosion of Internet usage also carries certain risks, including the means for Floridians to gamble or place bets in "virtual casinos: located in other jurisdictions and accessible only via the Internet. For example, one company located on the Caribbean island of Antigua offers full-service sports betting via an individual's personal computer or telephone; an individual sends the company a deposit and then may place a bet on sporting events by contacting the company by telephone or through the World Wide Web.

Regulation of Internet activity presents an enormous problem. The Internet since inception has been a self-policing operation, but this approach has been severely tested as the Internet has grown to its current size, which is estimated at between 20 and 30 million users,⁵ and the unbridled proliferation of subjects available online. As Internet technology continues to evolve, the number of users increases exponentially, making it extraordinarily difficult to adopt and implement durable and effective enforcement mechanisms. Without question, technology has jumped ahead of the law and law enforcement.

For example, complex techniques for scrambling or "encrypting" information without providing law enforcement court-authorized access to electronic keys to unlock such information presents a potentially insurmountable obstacle to detection of unlawful activities on the Internet. This rapidly developing encryption technology has surpassed the technology readily available for detection by law enforcement. The federal government continued to struggle, as it has for more than two years, to develop a system guaranteeing law enforcement access to encrypted information with proper court authorization.⁶

³ See, *Truchinski v. United States*, 393 F. 2d 627 (8th Cir. 1968), cert. denied, 393 U.S. 831 (1968); *United States v. Alpirn*, 307 F. Supp. 452 (S.D.N.Y. 1969). And see, *Cohen v. United States*, 378 F. 2d 751(9th Cir. 1967), cert. denied, 389 U.S. 897 (1967) (federal act not intended to be applicable to isolated acts of individuals not engaged in the business of wagering since its purpose is to curb the activities of the professional gamblers).

⁴ See, 18 U.S.C. § 1084(c), stating that nothing in this section shall create immunity from criminal prosecution under any laws of any state.

⁵ See Liu Peek, Jones, Buus, & Nye, *Managing Internet Information Services* (O'Reilly & Associates, Inc., December 1994), estimating approximately 24 million users of the Internet worldwide; and Lohr, Steve, *Who Uses the Internet? 5.8 Million Are Said to Be Linked in U.S.*, The New York Times, September 27, 1995, estimating the number of users in the United States, which is believed to compromise approximately half of the worldwide users, to be 5.8 million direct users of the Internet with another 3.9 million users through commercial on-line services.

⁶ Cocoran, Elizabeth, *White House to Unveil Data Encryption Plan Export of 'Scrambling' Technologies Allowed*, The Washington Post, August 17, 1995.

Despite the prohibitions against gambling provided by federal and state law, at present the structure and operations of the Internet pose an extraordinary challenge. In fact, determining the actual number of Internet users has been proven a "daunting challenge given the amorphous nature of cyberspace, with its lack of borders and its culture of anonymity."⁷ Although some World Wide Web destination host computers have the capability to record the Internet "address" of users who connect to the site, the ability to retrieve and interpret this data is extremely limited, especially where the host computer is located in a foreign jurisdiction. The technology is such that there may not be a traceable trail; it may therefore be impossible to detect all the wire communication relays that were used to transmit the information.

The Internet is the first truly global communications network, utilizing both interstate and international wire communications to link users around the world. Therefore, any effort to regulate use of the Internet is better suited to federal regulation than to patchwork attention by individual states. Evolving technology appears to be far outstripping the ability of government to regulate gambling activities on the Internet and of law enforcement to enforce such regulations. Thus resolution of these matters must be addressed at the national, if not international, level.

PREPARED STATEMENT OF JAY COHEN, PRESIDENT, CEO, WORLD SPORTS EXCHANGE

Chairman Kyl and other distinguished members of the subcommittee, my name is Jay Cohen and I am the President and CEO of World Sports Exchange. World Sports Exchange is an International Business Corporation (IBC) licensed in Antigua and authorized to operate worldwide under Antigua law. World Sports Exchange would like to submit this testimony as our position relating to S. 474.

World Sports Exchange (WSE) provides an internet gaming service for adults, 18 years of age or older. We are located offshore and licensed and regulated by the government of Antigua and Barbuda. Under Antigua laws WSE can accept wagers on sporting events worldwide. Our house rules are not unlike those accepted by all of the major Las Vegas properties. We have no assets, offices, employees, or operations in the United States.

All wagers take place in Antigua on our server. No money is transferred on a bet by bet basis. People must open accounts and wager from their accounts. When players bet they are directing a foreign transaction, no different than moving money from one offshore business to another. WSE does not accept credit cards. When players win their account is credited. When people make withdrawals, they are mailed a bank draft.

This system is no different from Las Vegas. Most Nevada properties will actually mail you your winnings anywhere in the country at your request. The form to have your winnings mailed to you is on the back of most wagering tickets. Their philosophy is "the bet took place here." It is the same way that internet gaming is operated here at World Sports Exchange. The bet takes place in Antigua. The money is already here. When people use the internet (for anything) they are taking a snapshot of something happening on a server somewhere else. We do not actively transmit information. Information resides on our server and when people click around our site they are actually requesting information from us. They are making a virtual visit to Antigua.

With regard to S. 474, WSE has concerns about the practice of a U.S. entity passing laws that restrict other countries commerce, but more importantly, WSE would like to suggest some recommendations for this new product. My comments are made as President of World Sports Exchange. While I can comment on the general condition of the industry, I do not have a working knowledge of all of my competitors.

BACKGROUND

The recent advent of technological advances including the internet and the "information Superhighway" has lead to some new challenges. Change is inevitable and the resulting reaction to change must properly address this change.

If the internet is to survive and thrive we have to ask ourselves the following question. Should a country be able to dictate what transpires on a server located outside it's borders? The internet should only be regulated by the jurisdiction in which the server resides. Imagine if there were a site in the U.S. that dealt with Women's issues or one that glorified fundamentalist Christian values. Let's say either one of these sites offended or even broke the laws of some foreign government.

⁷ Lohr, Steve, *Who Uses the Internet? 5.8 Million Are Said to be Linked in U.S.*, *supra*.

Would they have the right to dictate to a U.S. company what they can put on their server? No!

In this example, the server is located in the U.S. and it is only subject to local U.S. law. The same thing applies here. The internet would come to a screeching halt if every jurisdiction in the world could regulate every server in the world. The only logical option is what I already stated. Servers should be regulated by the jurisdiction in which they reside.

WHAT ABOUT MINORS AND PROBLEM GAMBLERS?

As with all new technology, there is a need for safety controls so as not to impact on children. World Sports Exchange believes in these controls and utilizes not one, but three child control utilities. WSE is registered with Cybersitter, NetNanny, and Surf Watch to ensure that children are kept out of our site. The above controls require parents to be responsible as well.

At WSE, we take our responsibility to keep children out seriously. However, much like other aspects of our society, parents must too take a role. It is not fair to put pressure on services and vendors that parents do not put on themselves. We will continue to upgrade our security controls—our goal is zero tolerance for underage participants.

WSE also acknowledges that there are people with gambling problems. We provide a link to Gambler's Anonymous on every page of our site. I don't know of any stores that stock Gambler's Anonymous pamphlets next to the lottery tickets counter. I also can't remember the last time I saw a Gambler's Anonymous pamphlet at a Blackjack table in Las Vegas, let alone every table.

WHAT ABOUT CORRUPTION IN SPORTS?

If there is corruption in sports at the professional or amateur level, it is going to happen regardless of whether people wager in Antigua, Las Vegas, or in an office pool. The house has a greater interest than any other party in keeping games clean. As in any other business, if there are people of low integrity there is potential for corruption. This does not mean you should close an entire regulated industry.

THE MORAL ISSUE

The moral question with regard to gaming was answered a long time ago. Americans accept gambling and want to gamble. Forty-eight out of fifty states have some form of state-sponsored wagering. It is common knowledge that many lottery games offer the worst odds available in gaming. Many state lotteries pay out as little as 50 percent to the players. Sports wagering returns approximately 97 percent to the players. At this point, it appears that the states are most concerned with lost revenue, not the public morality. Internet gaming is not a threat to these well-crafted public gaming events.

While it is clear that the states have no moral problem with gaming, using a state-by-state approach for internet gaming is not feasible. The advent of internet gaming does not pose a threat to the state lotteries, Off Track Betting (OTB), casinos and other gaming activities. It is a specialized niche that can be regulated on a national level with national standards.

REGULATION NOT PROHIBITION: USE THE MARKETPLACE TO REGULATE

The committee is aware of how much is wagered legally and illegally in this country. It is well into the billions of dollars. The first lesson in Economics 101 is that people will vote with their dollars. Well the results of this vote are clear. Americans overwhelmingly approve of gaming. They demonstrate this daily with their wallets and pocketbooks.

In the recent CDA case, the Supreme Court ruled that the internet is a 21st century newspaper with broad first amendment protection not a telephone line. The Court reinforced that opinion with it's 9-0 decision against the law. The highest court sent a strong message that the internet should be free. Before Congress passes a law that contradicts the will of the American people and a law that is difficult to enforce, WSE would like to make several recommendations to the subcommittee with respect to on-line gaming.

RECOMMENDATIONS

The only way the U.S. is going to get any real control over internet gaming is to license companies to operate from U.S. servers. If the federal government licensed internet gaming sites and imposed the same high standards required of Las Vegas

properties the market place would rapidly regulate itself. Most Americans, given the option, would prefer to play at a U.S. licensed site over a foreign one. This would effectively force foreign operators to apply for federal licenses and meet U.S. standards or be put out of business due to customer flight. This would put the sites under U.S. jurisdiction and bring in tax revenue.

If deemed necessary, provisions could be made to have a federal agency oversee the industry. Perhaps the Federal Trade Commission with regard to advertising and complaints or the Department of Commerce. Under this system, consumers would have an avenue should they have a complaint or problem.

World Sports Exchange would like to propose a set of industry standards which each company must meet in order to do business within the U.S. These standards would then be submitted to the appropriate federal agency and this agency would be responsible for ensuring that all internet gaming companies meet these minimum operating standards. Any company not meeting the standards would not be allowed to operate in the U.S.

World Sports Exchange urges this subcommittee to take a practical and realistic approach to this new industry. S. 474 is not the even, fair-handed approach that will protect all parties involved.

World Sports Exchange appreciates the chance to testify and would be more than happy to answer in writing any questions that the subcommittee may have.

PREPARED STATEMENT OF THE AMERICAN HORSE COUNCIL

The American Horse Council appreciates this opportunity to present the views of the horse industry on S. 474, the "Internet Gambling Prohibition Act of 1997."

The American Horse Council includes 185 equine organizations representing several hundred thousand individual horse owners and breeders, involved with all breeds of horses and all activities.

Included among the organizations represented by the AHC are the major associations of race tracks, breeders groups and horsemen's organizations which collectively comprise the pari-mutuel horse racing and breeding industry. Our individual members include owners, breeders, riders, drivers, trainers, veterinarians, farriers and other professionals whose livelihood depends on racing and the horse.

It is on behalf of this pari-mutuel sport and business, a major segment of the American horse community, that we present our views on this bill.

THE PARI-MUTUEL RACING AND BREEDING INDUSTRY

Pari-mutuel horse racing, including off-track and inter-track wagering is legal in 43 states and involves the racing of Thoroughbreds, Standardbreds, Quarter Horses, Arabians, Appaloosas and Paints. There are over 175 racetracks in the U.S. Racing and race horse breeding is a widespread and diverse industry that includes gambling, sport, recreation and entertainment and is built upon an agricultural base that involves the breeding and training of the horses.

Economic impact

In 1994, 40 million people attended the races, wagering over \$14.5 billion and generating over \$500 million in direct state and local revenue from pari-mutuel taxes, track licenses, occupational licenses, admission taxes and miscellaneous fees.

According to the study of the Economic Impact of the Horse Industry in the United States done by the American Horse Council Foundation, there are 941,000 people and 725,000 horses involved in racing and race horse breeding. Racing and breeding have a total economic impact in the U.S. of \$34.03 billion and support 472,800 total Full-Time-Equivalent jobs.

Although wagering on horse racing is permitted in 43 states, there is an active horse breeding and training business in all 50 states. In many, the economic contribution of the racing and breeding industry to state and local economies is substantial and the industry ranks among the state's most significant economic entities. For example, in California it involves 69,000 horses, has a \$4.1 billion economic impact and supports 52,000 FTE jobs; in Florida, it involves 37,000 horses, has a \$2.1 billion economic impact and supports 27,300 FTE jobs; in Illinois, it involves 52,000 horses, has a \$2 billion economic impact and supports 30,700 FTE jobs; and in Ohio, it involves 40,000 horses, has a \$1.3 billion economic impact and supports 17,000 FTE jobs.

State regulation—a long history

Pari-mutuel racing has been conducted in the United States under state authority and regulation for over 75 years. In every state that has allowed legalized wagering

on horse racing, strict state oversight and regulation has accompanied its introduction and growth. In each state the pari-mutuel industry is regulated by an agency most commonly known as the state racing commission. Among commission prerogatives are the licensing of track and horse owners, trainers, jockeys, drivers and all others involved in the pari-mutuel sport, and the promulgation and enforcement of the specific regulations under which the industry must operate. All matters pertaining to the operation of pari-mutuel racing are regulated by these agencies on behalf of the governors and state legislatures.

Over the years the states have consistently acted on the perceived need to closely regulate legal wagering and protect the public's interest in pari-mutuel sports. The actions of state legislatures and the racing commissions which carry out their policies have been predicated on the desire to:

- (1) Maintain the integrity of the events on which the public is allowed to wager;
- (2) Oversee the state's tax-related and economic interest in that wagering;
- (3) Ensure that licensees meet specific standards of qualification; and
- (4) Control any unlawful activities which may attempt to associate with the wagering aspects of the sport.

Racing as a sport

Racing is an activity that attracts many fans who appreciate it and follow it as a sport and who enjoy the excitement of the race and the athletic ability of the horses. The Triple Crown races in the spring of each year are shown on national television and widely-reported in the sports media. Individual stakes races are broadcast during the year and the Breeders Cup, Breeders' Crown and the Racing Challenge are covered by television and the media as the championships of Thoroughbred, Standardbred and Quarter Horse racing, respectively. In addition, most major U.S. newspapers cover racing and print the results of the races at their local tracks, much like they print the box scores of other sports.

As other sports and entertainment have expanded in the U.S., racing has lost some of its popularity. Attendance is no longer expanding, as it once was, although this spring's exciting pursuit of the Triple Crown by Silver Charm certainly piqued the interest of a broader base of fans and shows there is a continuing interest in racing in America. Racing is working hard to attract back the fans lost and make new fans.

The Pari-Mutuel System

While horse racing is a sport on which one can gamble, it would be erroneous to assume that pari-mutuel wagering is the same as other forms of gambling. Unlike other forms of gambling, horse racing uses the pari-mutuel system in which bettors wager against one another instead of against the "house." Of the total amount wagered on a particular race, approximately 85 percent is returned to winning bettors. The other 15 percent, called the "takeout," is shared between the state government, the race track and the horsemen who race at the track. Takeout rates, which vary from state to state, are published in track programs, available at race tracks and at simulcast wagering sites away from the track so that fans know them.

Wagering computations are accomplished by a totalisator machine, which adds bets over and over again during the course of betting. Every 30 to 60 seconds the tote flashes new betting totals and odds for each horse. The machines contain a number of features designed to minimize the potential for pari-mutuel fraud or machine malfunction. These features include coded ticket paper and duplication of all critical functions by two computers working independently of one another.

The pari-mutuel system ensures that the public has easy access to information regarding their true chances of winning. The use of the tote machine allows bettors to determine their chances of winning every 30 to 60 seconds.

Finally, the event—the race—upon which the wager is made, and paid, is a public event, watched by fans at the track or off-track facility, often viewed by others on television or cable, and always overseen by the stewards at the track itself to ensure the integrity of the race.

FEDERAL AND STATE POLICIES ON GAMBLING

Gambling, including that conducted on horse racing, has always been of concern to Congress and state governments. Throughout American history, the prohibition and regulation of gambling has largely been a function of the states. The only time that the federal government has become involved has been when a state could not solve a problem by itself. But even in these instances, for the reasons discussed above and others, pari-mutuel racing has often been either treated differently or

specifically considered under federal gambling laws. (See, for example, 18 U.S.C. Section 1953(b), the companion legislation to the Wire Act.)

The racing industry has developed to its current status under state law and regulation, the Interstate Horseracing Act of 1978 and the Federal Wire Statute, Section 1084 of Title 18 of the U.S. Code. If racing and breeding hopes to expand and develop a broader base, it must be able to do so under these same statutes.

The Interstate Horseracing Act of 1978

In 1978, Congress enacted a federal statute that specifically deals with interstate gambling on horse racing. The Interstate Horseracing Act of 1978 (IHA) made clear that a race track controlled wagering on its races in interstate and international commerce and provided for industry and regulatory approvals before betting was permitted between jurisdictions where the wagering was legal.

In the findings to the IHA, Congress said that states have the primary responsibility for determining what forms of gambling may take place within their borders, but that the Federal government should prevent interference by one state with the gambling policies of another. This is one of the expressed purposes of S. 474.

In the limited area of interstate off-track wagering on horse racing, Congress stated that "there is a need for Federal action to ensure that States will continue to cooperate with one another in the acceptance of legal interstate wagers." Congress also stated that the purpose of the IHA was "to regulate interstate commerce with respect to wagering on horse racing in order to further the horse racing and legal off-track betting industries in the United States."

The IHA has provided the racing industry with control over its product and allowed the industry to develop to its current state within parameters and guidelines.

The Federal Wire Statute

The industry has also had to comply with the Federal Wire Statute, which regulates interstate betting. 18 U.S.C. Section 1084(a) provides federal criminal penalties on anyone engaged in the business of betting or wagering "who knowingly uses a "wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest."

Section 1084(b) includes exceptions for wagering activities "from a state or foreign country where betting on that sporting event or contest is legal into a state or foreign country in which such betting is legal."

S. 474 would amend the Wire Statute.

Simulcasting, off-track and intertrack wagering, common pool wagering and telephone betting have been initiated, operated and expanded under these statutes and state approval and regulation.

CURRENT ACTIVITIES OF RACING

Communication today is very complicated in the highly-complex and ever-changing world of technology. In this environment new industries have sprung up wholecloth forcing existing industries to adapt and change practices in order to compete for the public's dollar. This is particularly true in the areas of gambling and entertainment.

Like others, the horse racing industry has had to adapt and change dramatically in the face of exploding competition and new technology. Just one example of that adjustment is that over two-thirds of money bet on racing today is bet at facilities other than where the race itself is run. Another is that race tracks, horse associations and private businesses are advertising and offering information on the sport through various traditional and more technological media.

Information

The process of betting on horse racing and selecting the winner is called "handicapping." It is a cerebral process for serious bettors who spend a great deal of time at the track, and elsewhere, pouring over information that will help them select the winners of races. This is not a random selection for students of the sport. The "handicapping" information used in this process has been available in written forms since racing began and is similar to the statistical information available and studied in other sports.

The racing industry is presently offering a great deal of this type of "handicapping" information in publications, on-the-wire, over 800 and 900 numbers and over the Internet in the way of advertisements for state-licensed and regulated race tracks, information and "how-to" sites, "tout" sheets, past performance information, betting lines and similar information, that will market the racing product to new fans and allows existing patrons to participate more successfully.

While this information "assists" someone in the placing of bets or wagers, it is not a bet or wager, is not necessary to place a bet or wager and is not covered by the present statute and we believe should not be affected by any amendment.

Bets and wagers

The industry also offers to varying degrees betting opportunities off-track in the form of off-track, intertrack and common pool wagering in most states and telephone betting in some. For example, telephone betting has been offered in New York for over 15 years by New York City Off Track Betting and Upstate New York Off Track Betting, both state agencies. The industry wants to continue these activities and expand them if additional states should decide to permit such activities under state control and regulation.

The Interstate Horseracing Act, the Federal Wire Statute, individual state statutes and regulations, state racing commissions and the race tracks themselves all combine to form a very capable regulatory system for pari-mutuel racing.

CONCERNS WITH PRESENT LANGUAGE IN S. 474

S. 474 is a natural response to the current changes in technology. The regulated and licensed pari-mutuel horse racing industry agrees with the purpose of this legislation and that the regulation of gambling is essential to protect state policies and revenues, the racing industry's ability to control its own product and the integrity of racing. It is opposed to any unregulated or unauthorized gambling, including on racing.

Nonetheless, we are concerned that changes to Section 1084 might adversely impact what has developed in racing and what it hopes to do in the future, not only with respect to betting itself but also with respect to the dissemination of information in order to market and broaden the fan base of our sport.

The horse industry is concerned with the present language in S. 474, particularly the amendments to Section 1084(b), under which OTB, intertrack wagering, merged pools and telephone betting have begun, operated and expanded. Specifically:

- (1) The bill does not make clear that the transmission or receipt of information about racing—but not necessary to place a bet—such as advertising, past performance information, current odds, similar technical or "how-to" information and the race itself, is not prohibited.
- (2) It also does not make it clear that the transmission or receipt of bets or wagers, information assisting in the placing of bets or wagers and common pool wagering between two states or a state and foreign countries where betting is legal will continue to be permitted.

It is critical to the future of the racing industry, the agri-business it supports, the state revenue and employment it generates, the sporting and the entertainment benefits it provides to countless fans, that all distribution mechanisms of racing information and its product be available, so long as they continue to meet regulatory criteria established by the federal and state governments. It is also important that the racing industry have the opportunity to take advantage of any and all technological advancements in the future distribution of its information and products in order to successfully compete against other forms of gambling, sport and entertainment.

Because of the unique status of pari-mutuel racing and the present regulatory structure applicable to it, we believe that the purposes of this legislation and the particular needs of racing can both be accommodated without infringing on federal or state public policies, abrogating strict regulation or lessening the current protections of the public. We look forward to working with the Chairman of the Subcommittee, the sponsors of the bill, the members of the committee and the staff to accomplish this.

We appreciate the opportunity to present these comments on this important legislation and would be happy to respond to any questions the members of the Subcommittee may have.

PREPARED STATEMENT OF INTERACTIVE GAMING COUNCIL, INTERACTIVE SERVICES ASSOCIATION

Senator Kyl and members of the subcommittee. My name is Sue Schneider and I appreciate the opportunity to submit testimony to the subcommittee on the issue of Senate Bill 474, the proposed legislation to prohibit Internet gambling.

By way of background, I am Editor of Rolling Good Times Online (www.rgtonline.com), an electronic magazine on the Internet which is read by

120,000 visitors monthly who enjoy gambling as a form of entertainment. We monitor the interactive gambling industry very closely because it is of great interest to our readers.

I also serve as the chairman of the Interactive Gaming Council which is a newly-formed organization under the umbrella of the Interactive Services Association. The Council currently has 35 members—innovative and responsible companies which have invested in bringing gaming products into new mediums such as the Internet.

May I take a moment to bring you up to date on the status of the industry as it stands today? Currently, there are some 30 Internet sites around the world which offer live wagering online. This number is double what it was in January and that number may double again by the end of the year if the development schedules of numerous companies remain intact.

Internet gambling is inevitable. It is fueled by the growing popularity of both the Internet and gambling as a form of entertainment. But this is a case where the technology is two years ahead of policy—at least in the U.S. And because of the nature of the Internet, it defies a simple answer to see international regulatory processes put into place.

The majority of these sites are licensed to operate gaming services by various jurisdictions around the world. While these tend to be concentrated in Caribbean and Central American countries, we are beginning to see larger jurisdictions such as New Zealand and several Australia states license Internet gaming operations.

Other jurisdictions are beginning to explore development of a regulatory process for these new gaming products, including at least one state in the U.S. To be factual, although some Attorneys General have taken it on themselves to attack this form of gambling, not one state legislative body has yet spoken and developed policy to deem it either legal or illegal.

Quite frankly, the Interactive Gaming Council members welcome U.S. regulation and would prefer to be licensed in the U.S.; yet, the lack of a legal and regulatory framework has driven these companies out of the U.S.

Consumers are demanding this form of entertainment and they will find a way to get it. One need only consider the popularity of video games among today's youth to know that, in the future, this generation will demand it, and have it. Therefore, to prohibit this form of home entertainment is simply not realistic. It will create a class of criminals, casual bettors across the country placing a wager on a sporting event for example. Under this Bill, a citizen placing a sports wager is subject to severe criminal penalties. Is this something you want to spend precious law enforcement resources on?

We have been tracking this legislation closely and would like to offer some comments about how this legislation can best be adapted to the realities of the Internet. Given the short notice, this testimony is our first submission and we intend to supplement the record.

I'd like to begin the testimony from the Interactive Gaming Council by concentrating on where we agree with Senator Kyl.

Of primary concern is consumer protection. The possibility of unscrupulous operators who may rig online casino games or not pay off consumers is present today although, quite frankly, the instances of such deception is surprisingly small to date. Consumer deception exists in any emerging industry: our challenge is to identify and curtail consumer abuses early.

The complexities of this new borderless medium presents challenges to international gaming regulators. The Interactive Gaming Council supports stringent regulation of the industry and welcomes the opportunity to meet standards similar to those to which land-based gaming operators must adhere.

Toward that end, the Council has begun a process of self-regulation beginning with a Code of Conduct for members, a copy of which I have attached to this testimony. We introduced the Code at the North American Gaming Regulators Association conference. We consider this an excellent starting point for the definition of responsible operating practices, and we invite further refinement from all sectors. Our members have already begun to pledge adherence to this Code of Conduct which will enable them to display a seal on their websites. We hope that this seal will be a beacon to consumers illuminating a path to responsible gaming companies.

Our next step is to develop an independent international Interactive Gaming Review Board which will develop a set of standards and a review process for certification or accreditation of both operators and suppliers to this emerging industry. These standards will include but not be limited to such concerns as: background checks; prize payment bonding; random testing of casino games; cash reporting practices which prohibit money laundering; licensing requirements; procedures which prohibit underage gambling and identify problem gamblers and tax reporting practices as required by law.

This certification mechanism may function as an interim measure until the international community of gaming regulators can catch up with the technology and develop adequate multi-jurisdictional systems.

It is my belief, that in the future, existing U.S. gaming operators (whether they be lotteries, land-based casinos, tracks or off-track-betting corporations,) will look to this new medium as an adjunct to their existing gaming products. The convenience demanded by consumers will drive this move to at-home mediums such as those the Internet offers.

However, we disagree with Senator Kyl on the method which best fosters consumer protection. It is our premise that staunch regulation, not unenforceable prohibition, is the most effective means of protecting players. U.S. Congressional prohibition will not lead to the elimination of these services in the global marketplace. Since these services are demanded, they will be supplied by a flourishing vendor market outside of the United States, and more troubling, possibly by criminal elements.

The United States Congress should respond with an enlightened internet policy vision, such as that encouraged by the Administration's view that, on matters affecting the internet, private sector leadership is preferable to government intrusion. Internet consumers adhere to the tenet that their use of this new medium is a personal freedom and that in a free society is an entitlement. As you know, this concept was validated recently by the U.S. Supreme which has observed that the appropriate filtering of internet content lies within the family—it is industry's challenge to provide useful and effective filtering tools.

In the case of this particular legislation, as you know, the genesis of the Interstate Wire Act dates back to the 1930s and the organized crime problems of the 1960s. Ironically, particularly as it relates to sports betting, the extent of illegal sports betting in the US remains huge today. And there is little question that organized crime continues to play a role in that system. Are US consumers not better served by betting with a legally licensed sportsbook, even if that license is from another country?

Make no mistake about it, the policy questions presented by new interactive gaming technologies presents more novel policy questions than we have currently devised answers for. In my view, the role of the family and of state government in restricting access to interactive gaming makes far better policy sense than federal prohibition.

The Interactive Gaming Council asks that, as you consider this bill, you realize the complexities of this international issue and work with the industry to reformulate this unrealistic prohibition bill into an effective regulatory act which adequately address the concerns of consumer protection, underage and problem gambling as well as the possible revenue implications for both state and the federal government.

We appreciate the chance to offer this industry viewpoint and look forward to working with you to design a workable bill. Thank you very much.

Respectfully submitted,

SUE SCHNEIDER, CHAIRMAN,
Interactive Gaming Council.

INTERACTIVE GAMING COUNCIL ISSUES CODE OF CONDUCT

The following is the text of the Interactive Gaming Council's proposed code of conduct. The code is currently pending approval by the ISA's board of directors and is slate for a vote at the next board meeting being held on June 6 in San Francisco.

1. Regulatory Compliance. All members will abide by the law and regulations of the jurisdiction where they propose to do business. Any member issued a bona fide gaming license from a sovereign jurisdiction shall provide evidence of that license and will be presumed to be operating under the authority and within the scope of that license. Members who are provided notice of a binding legislative or judicial determination which prohibits or limits operation in another jurisdiction shall abide by that limitation to the greatest extent technically feasible.

2. Accountability. To enhance customer confidence in gaming system integrity a member making their service available in a jurisdiction voluntarily agree to make their systems, algorithms available for inspection and review by any legitimate gaming commission or governmental authority recognized by the IGC, in accordance with generally accepted methods for protecting proprietary information.

3. Consumer Privacy and Data Protection. Members will design and operate their services to afford customers the greatest degree of privacy and confidentiality. Each member will institute controls to detect and eliminate fraud and to protect data and the system from internal and external breaches.

4. *Truth in Advertising.* Members shall be truthful in all promotions and publish only accurate information about their operations. Gaming and Wagering Operator Member rules, registration procedures and payout percentages will be made available to the public.

5. *Dispute Resolution and Audit Trails.* In order to provide prompt and efficient dispute resolution each member will retain detailed transaction records which will be archived, accessible and auditable.

6. *Limiting Access by Minors.* Members will institute adequate controls to prohibit minors from accessing their gaming systems. The controls will require customers to affirm that they are of lawful age in their jurisdiction, and the member shall institute reasonable measures to corroborate this information.

7. *Controlling Compulsive Gambling.* Members will implement adequate procedures to identify and curtail; compulsive gambling. The procedures instituted shall include posted loss limits, and provision of referral and direct access to help and counseling organizations.

8. *Banking and Transaction Processing.* Members will conduct their banking and financial affairs in accordance with generally accepted standards of internationally recognized banking institutions. Members will follow and adhere to all jurisdictional laws pertaining to transaction reporting.

9. *Prize Payouts.* Interactive Gaming and Wagering Operator will ensure that there is adequate financing available to pay all current obligations and that working capital is adequate to finance ongoing operations. Members will pay winnings and account balances promptly on demand.

10. *Corporate Citizenship.* Members will endeavor to design and implement their services in order that they preserve and protect environmental resources, avoid depiction of violence and so that the services are user friendly and generally accessible to the handicapped. Members will endeavor to support public service initiatives in harmony with the jurisdictions in which they provide their services.

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